



(collectively, the “Chapter 11 Cases”), in the United States Bankruptcy Court for the District of Maine (the “Bankruptcy Court”). There are twenty-eight (28) Debtors in these Chapter 11 Cases.

3. The Debtors are continuing in possession of their properties and are operating and maintaining their businesses as debtors in possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner in these cases, and no official committee has yet been appointed by the Office of the United States Trustee.

4. The Debtors have requested various types of relief in certain “first day” motions (collectively, the “First Day Motions”) in order to minimize any adverse effects of the commencement of these Chapter 11 Cases on their businesses. The First Day Motions seek relief aimed at, among other things, (a) preserving customer relationships; (b) maintaining dealer confidence and employee morale; (c) ensuring the continuation of the Debtors’ cash management systems and other business operations without interruption; and (d) establishing other administrative procedures to promote a smooth transition into chapter 11. Gaining and maintaining the support of the Debtors’ customers, employees, dealers and certain other key constituencies, as well as maintaining the day-to-day operations of the Debtors’ businesses with minimal disruption, will be crucial to the Debtors’ Chapter 11 Cases.

5. I submit this affidavit (the “Affidavit”) in support of the Debtors’ need for voluntary relief under chapter 11 of the Bankruptcy Code, and the relief requested by the Debtors in the First Day Motions filed with this Bankruptcy Court contemporaneously with this Affidavit. All facts set forth in this Affidavit are based on my personal knowledge, on information supplied to me by others within the Debtors’ organizations, upon my review of relevant documents, or on my opinion based upon my experience and knowledge of the Debtors’ operations, financial condition and

present liquidity needs. If I were called upon to testify, I could and would testify competently to the facts set forth herein. I am authorized to submit this Affidavit on behalf of each of the Debtors. Part I of this Affidavit describes the Debtors' businesses. Part II of this Affidavit provides a description of the Debtors' pre-petition capital structure. Part III of this Affidavit sets forth relevant facts in support of each of the First Day Motions including the Cash Collateral Motion (as defined below), filed concurrently herewith. Finally, Part IV describes the Debtors' objectives in these Chapter 11 Cases.

**I. Description of Debtors' Business**

6. The Debtors' principal operating business is the direct broadcast satellite business. Specifically, the Debtors provide DIRECTV® programming services to rural households across the United States. As of March 31, 2004, the Debtors were the largest independent distributor of DIRECTV programming with in excess of 1.1 million subscribers and the exclusive right to distribute DIRECTV services to approximately 8.4 million rural households in certain territories within 41 states. The Debtors had consolidated assets of approximately \$1.6 billion related to their direct satellite business, which generated net revenues of approximately \$831 million during calendar year 2003.

7. Direct broadcast satellite programming services are digital broadcasting services that require a subscriber to install or have installed a satellite receiving antenna (or dish) and a digital receiver. DIRECTV requires subscribers to have a satellite dish, which can be as small as 18 inches in diameter depending on the services received, to which DIRECTV directly transmits programming services via five satellites. The Debtors in turn offer certain core DIRECTV programming packages to subscribers, which vary according to channels delivered and price.

8. As of the Petition Date, the Debtors had approximately 779 employees devoted to their direct satellite business. In addition, the Debtors maintain an independent retail network

through dealer relationships to distribute DIRECTV programming in their exclusive territories. The Debtors' network includes over 4,000 independent retailers, consumer electronics stores, and other retailers serving rural areas in the Debtors' exclusive service areas. Today, the Debtors' retail network is one of the few sales and distribution channels available to digital satellite service providers seeking broad and effective distribution in rural areas throughout the continental United States.

9. In addition to their direct satellite business, certain of the Debtors are either owners or programmers of eight television stations affiliated with either CBS Television ("CBS"), Fox Broadcasting Company ("Fox"), United Paramount Network ("UPN"), or The WB Television Network ("WB"). As of December 31, 2003, the Debtors had consolidated assets of approximately \$57.0 million related to their television broadcasting business. As of the Petition Date, the Debtors had approximately 163 employees devoted to their broadcast television business.

**A. Background of the Debtors**

10. PSC is a direct subsidiary of Pegasus Communications Corporation ("PCC"), a non-debtor Delaware corporation that is a publicly listed company (NASDAQ: PGTV). PSC is a holding company and is the direct parent company and sole shareholder of Pegasus Media & Communications, Inc. ("PMC"), which is also a holding company and one of the Debtors in these Chapter 11 Cases. PMC conducts direct broadcast satellite operations through fifteen (15) subsidiaries, fourteen (14) of which have filed voluntary petitions under chapter 11 and are Debtors in these cases (together with PMC, the "Satellite Debtors"). The primary direct broadcast satellite operating subsidiary of PMC is Pegasus Satellite Television, Inc. ("PST"). Together with its Debtor subsidiaries and sister company affiliate, Henry County MRTV, Inc., PST is the nation's largest independent provider of DIRECTV, the country's leading direct broadcast satellite service, as discussed in greater detail below.

11. PMC also conducts television broadcast operations through 12 subsidiaries (the “Broadcast Debtors”), all of which have filed voluntary petitions under chapter 11 and are Debtors in these cases. The Broadcast Debtors own four television stations and operate five others. One of the stations operated by a Broadcast Debtor is owned by a subsidiary of Pegasus Satellite Communications, Inc. (WGFL License Corporation), which is not a Debtor in this proceeding.

12. Attached as Exhibit A is a true and correct copy of an organizational chart demonstrating the existing relationships between each of the Debtors.

**B. Business Operations: The Satellite Debtors**

(i) Direct Broadcast Satellite Television

13. There are currently two nationally branded direct broadcast satellite programming services: DIRECTV and The DISH Network (“DISH”). DIRECTV is a service of DIRECTV, Inc., a subsidiary of The DIRECTV Group, Inc. (f/k/a Hughes Electronics Corporation). DIRECTV, Inc. is now controlled by the Fox Entertainment Group, Inc., after The News Corporation Limited acquired control of Hughes Electronics Corporation from General Motors Corporation in December 2003. DISH is owned by EchoStar Communications Corporation (“EchoStar”). Additionally, Cablevision Systems Corporation launched a high definition focused direct broadcast satellite service in late 2003 through its Rainbow DBS LLC subsidiary. This new direct broadcast satellite entrant operates under the VOOM brand name.

14. Direct broadcast satellite programming services are digital services that require a subscriber to install or have installed a satellite receiving antenna (or dish) and a digital receiver. DIRECTV transmits programming services via five high power Ku band satellites into subscribers homes. The reception of DIRECTV services requires the installation of a satellite dish that can be as

small as 18 inches in diameter. The Satellite Debtors in turn offer programming packages to subscribers, which vary by channels delivered and price.

15. The Satellite Debtors are the primary providers of DIRECTV programming services in rural areas. Rural areas make up approximately 85% of the total landmass of the continental United States and are home to approximately 20% of the U.S. population. Because the cost of reaching a household by a cable or other wire line distribution system is generally inversely proportional to home density (the greater the density, the less the cost per household) and the cost of providing the satellite service is not, direct broadcast satellite services have strong cost advantages over cable and other wire line distribution systems in rural areas. Rural areas, therefore, represent a large and attractive market for direct broadcast satellite services. The Satellite Debtors actively market DIRECTV programming to potential subscribers in these market segments as their primary source of television programming.

16. The direct broadcast satellite business competes with a number of different sources that provide news, information, and entertainment programming to consumers. Some of these competitors include, among others, other direct broadcast satellite providers, cable television systems, internet companies, local television broadcast stations that can be reached using a roof top antenna, satellite master antenna television systems, wireless program distribution services, movie theaters, and home video products.

(ii) Independent Retail Network

17. The Satellite Debtors obtain new subscribers for their DIRECTV programming services through several channels of distribution. The most significant method of distribution is the Debtors' independent retail network, which consists of dealer relationships with over 4,000 dealers

(the “Dealers”), as discussed above. The Satellite Debtors’ primary commission plan with the Dealers involves the marketing of the Pegasus Digital One Plan (the “Digital One Plan”).<sup>2</sup> This commission plan is generally governed by the Dealer Rules, Policies, and Procedures, restated as of May 10, 2004 (the “Dealer Rules”). In general, the Dealer Rules provide that the Dealers will market the Pegasus Digital One Plan (the “Program”) to residential subscribers who are not current DIRECTV programming subscribers and who have not subscribed to DIRECTV programming through the Satellite Debtors during the prior twelve months. The Dealers are responsible for enrolling subscribers to the Satellite Debtors’ DIRECTV programming, providing subscribers with the necessary equipment, and arranging for installation of the equipment.

18. The Dealers are typically paid directly by the Satellite Debtors through a variety of incentive programs, including equipment subsidies, installation subsidies, commissions, and/or flex payments. The Satellite Debtors change these incentives from time to time in accordance with certain business rules to reward particular Dealer behavior or to achieve a particular mix of sales. In addition, the Dealers may participate in the Pegasus Cooperative Advertising Program (the “Cooperative Advertising Program”). Under the Cooperative Advertising Program, eligible dealers are allocated monthly cooperative advertising funds to offset a certain percentage of their qualified advertising expenditures.

19. The strength of the Satellite Debtors’ business is based upon the Satellite Debtors’ widespread national presence in rural markets. In contrast to metropolitan areas, it is difficult to establish sales and distribution channels in rural areas. Most retailers in rural areas are independently owned and operate a limited number of store locations. As a result, the Satellite

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<sup>2</sup> In addition to the Pegasus Digital One Plan, the Dealers may also market the Pegasus Standard Sale Plan (the “Standard Sale Plan”).

Debtors rely on their 4,000 independent Dealers to distribute DIRECTV programming services to certain areas of the country that would otherwise be underserved. The Satellite Debtors' ability to maintain a network of Dealers and to penetrate rural markets on a wide-scale basis is critical to the Satellite Debtors' success in its restructuring efforts. Furthermore, the Satellite Debtors' operations are dependent upon obtaining a sufficient number of quality subscribers and retention of subscribers for extended periods of time. The Satellite Debtors' Dealer compensation and incentive programs are designed to ensure that the Dealers maximize their efforts in enlisting and retaining new, quality subscribers to the Satellite Debtors' DIRECTV programming services.

(iii) Direct and Other Sales Channels

20. In addition to its independent retail network, the Satellite Debtors have direct sales capabilities to facilitate the acquisition of new subscribers through telemarketing, advertising and other marketing efforts, which reduce subscriber acquisition costs. Through its direct sales channels the Satellite Debtors enroll subscribers and arrange for equipment delivery and installation through distribution arrangements with third party service providers and national distributors. Finally, the Satellite Debtors also obtain new subscribers to DIRECTV programming through national retail chains that sell DIRECTV under arrangements with DIRECTV, Inc.

(iv) Two Step Distributor Relationships

21. In order to facilitate the acquisition of subscribers via Satellite Debtors' retail network, direct sales capabilities, and alternate channels of distribution, the Satellite Debtors have entered into certain distribution and fulfillment arrangements with various national distributors of satellite programming equipment. Distributors purchase satellite equipment directly from manufacturers and maintain in their inventory the equipment needed by subscribers to access the Satellite Debtors' DIRECTV programming. Distributors sell this equipment to the Dealers (the price



of which may be subsidized by the Satellite Debtors through their equipment “buy-down” program) who, in turn, provide the equipment to subscribers. Distributors directly charge the Dealers for the equipment they sell to them. Distributors also drop ship equipment to subscribers or arrange for equipment fulfillment and installation for subscribers obtained through the Satellite Debtors’ direct sales channel or through one of the Satellite Debtors’ other alternate channels of distribution.

(v) Consumer Offers

22. The Satellite Debtors generally offer two options for acquiring the equipment necessary to receive DIRECTV programming: the Digital One Plan and the Standard Sale Plan. Under the Digital One Plan, subscribers are provided with equipment, consisting of a satellite receiving antenna (dish) and one or more set top receivers, obtain DIRECTV programming for a monthly programming fee, enter into an initial 12 month commitment secured by a credit card, and enjoy the benefits of repair service without additional monthly cost (subject to certain limitations). Under this plan, the Satellite Debtors retain title to the set top receivers and remote controls provided to subscribers. Subscribers who terminate service but do not return equipment and access cards are assessed equipment nonreturn fees and may be assessed access card nonreturn fees. Failure to satisfy the 12 month commitment, including, in some instances, downgrading of service, typically results in the imposition of cancellation fees.

23. Under the Standard Sale Plan, subscribers obtain equipment consisting of a satellite receiving antenna (dish) and one or more set top receivers and obtain DIRECTV programming for a monthly programming fee. Unlike the Digital One Plan, the subscribers own the equipment under the Standard Sale Plan. The Debtors require most Standard Sale Plan subscribers to make an initial 12 month commitment. Failure to satisfy the 12 month programming commitment by

those subscribers required to make the commitment typically results in the imposition of cancellation fees.

24. The imposition of cancellation fees under both the Digital One Plan and the Standard Sale Plan is intended to reimburse the Debtors in part for their costs of special introductory promotional offers, equipment and installation subsidies paid to retailers in order to induce those retailers to provide these items at a low cost or no cost to subscribers, and dealer commissions.

(vi) Direct Broadcast Satellite Agreements

25. The Satellite Debtors distribute DIRECTV programming services through agreements with the National Rural Telecommunications Cooperative (the "NRTC"). The NRTC is a cooperative organization whose members and affiliates are engaged in the distribution of telecommunications and other services in predominantly rural areas of the United States. Prior to the launch of DIRECTV's programming services, Hughes Communications Galaxy, Inc. ("Hughes Communications"), succeeded by DIRECTV, Inc., entered into the DBS Distribution Agreement, as amended (the "DBS Agreement") with the NRTC authorizing the NRTC to offer its members and affiliates the opportunity to acquire exclusive rights to distribute DIRECTV programming services in rural areas. Approximately 252 NRTC members and affiliates, including PST (the "NRTC Patrons"), initially acquired such exclusive rights, thereby becoming DIRECTV independent distributors.

26. At the time DIRECTV began providing satellite programming services in 1994, the Satellite Debtors were the largest of the original DIRECTV independent distributors, with a DIRECTV exclusive territory of approximately 500,000 homes in four New England states. In October 1996, the Satellite Debtors began acquiring exclusive distribution rights from other NRTC

Patrons. Between October 1996 and February 2001, the Satellite Debtors acquired an aggregate of 159 additional territories through such acquisitions.

27. Member Agreements. The Satellite Debtors provide DIRECTV programming services in each of these territories pursuant to the NRTC/Member Agreements for Marketing and Distribution of DBS Services, as amended (the “Member Agreements”) between the NRTC and certain of the Satellite Debtors. Through the Member Agreements and the DBS Agreement, described above, the Satellite Debtors have substantial rights and enjoy substantial benefits from the distribution of DIRECTV services into their exclusive territories. These rights include the right to set pricing, to retain all subscription remittances and to appoint sales agents. In exchange for such rights and benefits, the Satellite Debtors make substantial payments to the NRTC each month, for programming and other actual costs billed by DIRECTV to NRTC on account of the Satellite Debtors’ subscribers, although a certain portion of the payments include charges by NRTC and DIRECTV that are unrelated to costs of providing services to the subscribers.

28. In addition, Pegasus Letter of Credit Subsidiary, Inc., a non-debtor subsidiary of Pegasus Media & Communications, Inc., one of the Debtors, has posted irrevocable letters of credit to secure payment of NRTC’s billings in the outstanding principal face amount of \$59 million, naming the NRTC as the beneficiary. These letters of credit are cash collateralized at 105% of the outstanding face amount, or approximately \$62 million. Subject to the terms and conditions of the Member Agreements (and the drawing conditions under the letters of credit), if the Debtors fail to pay their uncontested obligations under the Member Agreements after written notice from the NRTC, the NRTC may have the ability to draw upon the letters of credit.<sup>3</sup>

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<sup>3</sup> The Debtors and the NRTC dispute the interpretation and application of the terms of the Letter of Credit Amendment to the Member Agreements. Any statements contained herein shall be without prejudice to the Debtors’

29. Revised Seamless Consumer Program Agreement. In addition to the Member Agreements, PST and Golden Sky Systems, Inc. entered into an interim arrangement with DIRECTV, Inc., without prejudice to its claims for programming and other services, to provide certain programming services to the Satellite Debtors' existing and prospective subscribers pursuant to a revised seamless consumer program agreement (the "Revised Seamless Consumer Program Agreement"). The Revised Seamless Consumer Program Agreement enables the Satellite Debtors to provide DIRECTV subscribers a more expansive service selection and a simplified and consolidated billing process. In particular, while the Member Agreements allow the Satellite Debtors to provide all programming and services, at a minimum, from 27 frequencies at the 101 W.L. orbital location, under the Revised Seamless Consumer Program Agreement, the Satellite Debtors are able to provide subscribers with certain premium programming channels distributed by DIRECTV, such as HBO, Showtime, Cinemax and The Movie Channel (which the Satellite Debtors believe they have the right to provide in any event, although DIRECTV contests such right), as well as certain local television station broadcasts, which are provided from other frequencies. Under the Revised Seamless Consumer Program Agreement, the Satellite Debtors bill and collect monthly fees from subscribers, retain certain percentages of the revenues associated with the additional programming services, and remit the remaining revenue to DIRECTV.

**C. Business Operations: The Broadcast Debtors**

30. The Broadcast Debtors own and/or operate certain television stations affiliated with CBS, Fox, UPN, or WB. The markets served by, call letters and network affiliations of these stations are: Portland, Maine – WPXT (WB) and WPME (UPN); Chattonooga, Tennessee – WDSI

(Fox); Tallahassee, Florida – WTLH (Fox) and WTLF (UPN); Wilkes-Barr/Scranton, Pennsylvania – WOLF (Fox), WILF (WB) and WSWB (WB), and Gainesville, Florida – WGFL (CBS).<sup>4</sup>

(i) Local Marketing Agreements

31. The Broadcast Debtors have entered into local marketing agreements or similar agreements (“LMA’s”) in certain markets where the Broadcast Debtors already own a television broadcast station. These agreements allow the Broadcast Debtors to program the broadcast hours and sell advertising for that time of a station whose FCC license is owned by a third party.<sup>5</sup> The Broadcast Debtors have entered into the LMA’s because pursuant to current rules administered by the Federal Communications Commission the number of television stations one entity may own in a given market is limited. Thus, the LMA’s allow the Broadcast Debtors to obtain additional opportunities for increasing revenue share with limited additional operating expenses. There are three markets in which the Broadcast Debtors’ own stations and separately program a station pursuant to an LMA: Portland, Maine; Wilkes-Barre/Scranton, Pennsylvania; and Tallahassee, Florida.

**II. Description of Pre-Petition Capital Structure**

32. The Debtors’ prepetition debt structure was largely comprised of two components: (1) senior secured bank debt through two term loan credit facilities and one revolving credit facility, and (2) unsecured bond debt. As of March 31, 2004, the Debtors had outstanding indebtedness of approximately \$1.5 billion.

33. PMC is party to two credit facilities with the lender parties thereto that provided it with approximately \$410 million in borrowing capacity in the form of a revolving credit facility and a term loan facility. As of the Petition Date, approximately \$409.8 million in aggregate

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<sup>4</sup> Certain of these stations are owned by non-Debtor entities, but such stations are operated by the Broadcast Debtors.

<sup>5</sup> Certain of the LMA’s are between Debtor and non-Debtor entities.

principal amount is outstanding under PMC's prepetition credit facilities. PMC's obligations under these prepetition credit facilities are secured by first liens on substantially all of PMC's assets, including the equity of substantially all of PMC's Debtor and non-Debtor subsidiaries. PMC's obligations under these prepetition credit facilities are guaranteed by substantially all of PMC's Debtor and non-Debtor subsidiaries.

34. PSC is a party to a prepetition term loan facility with the lender parties thereto. As of the Petition Date, approximately \$104.4 million in aggregate principal amount is outstanding under the prepetition term loan facility. PSC's obligations under the prepetition term loan facility are secured by a second lien on the stock of PMC and a first and second lien on certain PSC collateral bank accounts the balance of which are zero as of the Petition Date. In addition to the prepetition bank debt, PSC has approximately \$941 million (of which approximately 42 million is represented by the note payable to PCC) in aggregate principal amount of unsecured notes with varying interest rates and maturities.

### III. **First-Day Motions**

35. Concurrent with the filing of these chapter 11 cases, the Debtors have filed a number of motions (the "First Day Motions").<sup>6</sup> The First Day Motions consist of (a) motions pertaining to business operations, described in Section A; (b) case administration motions, described in Section B; and (c) professional retention applications and related motions, described in Section C below.<sup>7</sup> The Debtors will seek to have a number of First Day Motions heard by the Court as soon as possible after the commencement of these cases. The Debtors do not seek to have heard certain of the First Day Motions, as indicated in the description of such motions, at the "first day" hearing, but the

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<sup>6</sup> Certain of the retention applications and related motions described herein will not be filed concurrently with the chapter 11 cases, but will be filed shortly thereafter, as is indicated in the description of each such application/motion.

<sup>7</sup> Capitalized terms not expressly defined in this Section III shall have the same meaning ascribed to that term in the

Debtors will request at the “first day” hearing that the Court schedule a separate hearing to consider such Motions as soon as practicable, so that an official creditors committee appointed in this case may be heard with respect to such Motions.

36. An important element of the Debtors’ successful chapter 11 cases is approval of each of the First Day Motions. In furtherance of their objective of successfully reorganizing, the Debtors respectfully request that each of their First Day Motions be approved and entered. I have reviewed each of the First Day Motions, including the exhibits thereto, and I believe that the relief sought in each of the First Day Motions is necessary to enable the Debtors to operate in chapter 11 with a minimum of disruption and, ultimately, will be critical to the Debtors’ ability to achieve a successful reorganization. Factual information with respect to each First Day Motion is provided below and in each First Day Motion.

**A. Motions Pertaining to Business Operations**

*1. Emergency Motion for Interim Order (A) Authorizing Use of Cash Collateral, (B) Granting Adequate Protection to Certain Prepetition Secured Parties Pursuant to Sections 105, 361 and 363 of the Bankruptcy Code Including Replacement Liens and Superpriority Claims, and (C) Scheduling a Hearing for Final Approval of Use of Cash Collateral (the “Cash Collateral Motion”)*

37. Pursuant to that certain Fourth Amendment and Restatement of Credit Agreement, dated as of October 22, 2003 (as amended, the “Prepetition Term Loan Agreement”) among Pegasus Media & Communications, Inc (“PM&C”), the direct parent of PST, as borrower, Bank of America, N.A., as agent (in such capacity, the “Prepetition Term Loan Agent”), Deutsche Bank and Trust Company Americas, as resigning agent, and the lenders from time to time party thereto (collectively, the “Prepetition Term Loan Lenders”), the Prepetition Term Loan Lenders made terms loans either directly or through an affiliate, to PM&C. The Debtors admit that, as of the

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referenced First Day Motion.

Petition Date, (a) PM&C was truly and justly indebted to the Prepetition Term Loan Lenders and the Prepetition Term Loan Agent, without defense, counterclaim or offset of any kind, for (i) term loans in the aggregate principal amounts of \$391,766,856 (the “Term Loans”), and (ii) accrued but unpaid interest thereon in the approximate amount of \$2,950,150, plus all fees and other amounts due and owing under the Prepetition Term Loan Documents (collectively, the “Prepetition Term Loan Obligations”), (b) Pegasus Satellite Communications, Inc. (“PSC”), the direct parent of PM&C, as limited recourse guarantor, is contingently liable to the Prepetition Term Loan Lenders with respect to the Prepetition Term Loan Obligations pursuant to and in accordance with the terms of a certain limited recourse guarantee executed by PSC in favor of the Prepetition Term Loan Agent for the benefit of the Prepetition Term Loan Lenders and (c) certain subsidiaries of PM&C, including PST, as guarantors (the “Subsidiary Guarantors,” collectively with PSC, the “Guarantors”), are contingently liable to the Prepetition Term Loan Lenders with respect to the Prepetition Term Loan Obligations pursuant to a certain subsidiary guaranty executed by such Subsidiary Guarantors in favor of the Prepetition Term Loan Agent for the benefit of the Prepetition Term Loan Lenders.

38. Pursuant to that certain Credit Agreement, dated as of December 19, 2003 (as amended, the “Prepetition Revolving Credit Agreement”), among PM&C, as borrower, Madeleine, L.L.C., as administrative agent (in such capacity, the “Prepetition Revolving Credit Agent”), and the lenders from time to time party thereto (collectively, the “Prepetition Revolving Credit Lenders”), the Prepetition Revolving Credit Lenders made revolving loans and other financial accommodations to PM&C. The Debtors admit that, as of the Petition Date, (a) PM&C was truly and justly indebted to the Prepetition Revolving Credit Lenders and the Prepetition Revolving Credit Agent, without defense, counterclaim or offset of any kind, for (i) revolving loans in the aggregate principal amounts of \$18,000,000 (the “Revolving Loans”, together with the Term Loans, the “Senior



Loans”), (ii) accrued but unpaid interest thereon in the approximate amount of \$275,410, (iii) a commitment fee in the amount of \$10,416.67 plus all other fees and other amounts due and owing under the Prepetition Revolving Credit Documents (collectively, the “Prepetition Revolving Credit Obligations”, together with the Prepetition Term Loan Obligations, the “Prepetition Senior Obligations”) and (b) the Guarantors were contingently liable to the Prepetition Revolving Credit Lenders and the Prepetition Revolving Credit Agent with respect to the Prepetition Revolving Credit Obligations pursuant to and subject to the terms of the guarantees executed by the Guarantors in favor of the Prepetition Revolving Credit Lenders for the benefit of the Prepetition Revolving Credit Agent.

39. To secure the Prepetition Term Loan Obligations, PM&C and the Subsidiary Guarantors granted to the Prepetition Term Loan Agent security interests in and liens upon substantially all of their respective personal and material real property and other assets, then owned or thereafter acquired or arising, and the proceeds, products, rents and profits of all of the foregoing and (ii) PSC granted to the Prepetition Term Loan Agent security interests in and Liens upon PSC’s right, title and interest in all outstanding equity securities of PM&C and certain of its other direct subsidiaries and certain other personal property collateral (the “PSC Collateral”) as provided for in the related pledge agreement (all such collateral referred to in the preceding clauses (i) and (ii) and all property subject to valid rights of setoff in favor of the Prepetition Term Loan Agent and the Prepetition Term Loan Lenders, as of the Petition Date, is collectively referred to as the “Prepetition Term Loan Collateral” and the security interests and Liens upon such Prepetition Term Loan Collateral in favor of the Prepetition Term Loan Agent are referred to as the “Prepetition Term Loan Liens”).

40. To secure the Prepetition Revolving Credit Obligations, PM&C and the Guarantors granted to the Prepetition Revolving Credit Agent security interests in and Liens (the “Prepetition Revolving Credit Liens”, together with the Prepetition Term Loan Liens, the “Prepetition Senior Liens”) upon all of the Prepetition Term Loan Collateral (all such collateral and all property subject to valid rights of setoff in favor of the Prepetition Revolving Credit Agent and the Prepetition Revolving Credit Lenders, as of the Petition Date, is collectively referred to as the “Prepetition Revolving Credit Collateral,” together with the Prepetition Term Loan Collateral, the “Prepetition Priority Collateral”).

41. As provided in that certain Intercreditor Agreement, dated as of December 19, 2003 (the “Senior Lender Intercreditor Agreement”), between the Prepetition Term Loan Agent and the Prepetition Revolving Credit Agent, the Prepetition Term Loan Liens and the Prepetition Revolving Credit Liens share pari passu in all Prepetition Priority Collateral.

42. Pursuant to that certain Amended and Restated Term Loan Agreement, dated as of August 1, 2003 (as amended, the “Junior Term Loan Agreement”), among PSC, as borrower, Wilmington Trust Company (“WTC”), as administrative agent (the “Junior Term Loan Agent,” together with the Prepetition Term Loan Agent and the Prepetition Revolving Credit Agent, the “Prepetition Agents”), and the lenders from time to time party thereto (collectively, the “Junior Term Loan Lenders”), the Junior Term Loan Lenders made term loans and other financial accommodations to PSC. The Debtors admit that, as of the Petition Date, PSC was truly and justly indebted to the Junior Term Loan Lenders and the Junior Term Loan Agent, without defense, counterclaim or offset of any kind, for (i) term loans in the aggregate principal amounts of \$104,402,897 (the “Junior Term Loans”, together with the Senior Loans, the “Prepetition Loans”) and (ii) accrued but unpaid interest thereon in the approximate amount of \$2,246,374, plus all fees

and other amounts due and owing under the Junior Term Loan Documents (collectively, the “Junior Term Loan Obligations”).

43. To secure the Junior Term Loan Obligations, PSC granted to the Junior Term Loan Agent security interests in and Liens (the “Junior Term Loan Liens”, together with the Prepetition Senior Liens, the “Prepetition Liens”) upon all outstanding equity securities of PM&C, all dividends and distributions thereon and all proceeds thereof, all Indebtedness (as defined in the Junior Term Loan Agreement) of PM&C owed to PSC, including without limitation all intercompany loans made to PSC from PM&C, and all payments received by PSC from PM&C with respect thereto, and all Tax Sharing Payments (as defined in the Junior Term Loan Documents) received by PSC, as identified in the Junior Security Documents (the “Junior Term Loan Collateral”).

44. Pursuant to that certain Intercreditor Agreement, dated as of August 1, 2003 (the “Junior Intercreditor Agreement,” together with the Senior Lender Intercreditor Agreement, the “Intercreditor Agreements”), among the Prepetition Term Loan Agent, the Junior Term Loan Agent and PSC, the parties thereto agreed that, among other things, the Junior Term Loan Liens on any Junior Term Loan Collateral are junior and subordinate to the Prepetition Senior Liens thereon on the terms and subject to the conditions set forth in the Junior Intercreditor Agreement.

45. The term “Prepetition Obligations” means the Prepetition Revolving Credit Obligations, the Prepetition Term Loan Obligations and the Junior Term Loan Obligations. The term “Prepetition Financing Documents” means the Prepetition Revolving Credit Documents, the Prepetition Term Loan Documents and the Junior Term Loan Documents. The term “Prepetition Priority Lenders” means the Prepetition Revolving Credit Lenders and the Prepetition Term Loan

Lenders. The term "Prepetition Senior Agents" means the Prepetition Revolving Credit Agent and the Prepetition Term Loan Agent. The term "Prepetition Secured Parties" means the Prepetition Revolving Credit Lenders, the Prepetition Term Loan Lenders, the Junior Term Loan Lenders, the Prepetition Revolving Credit Agent, the Prepetition Term Loan Agent and the Junior Term Loan Agent. The term "Prepetition Liens" means the Prepetition Revolving Credit Liens, the Prepetition Term Loan Liens and the Junior Term Loan Liens. The term "Prepetition Collateral" means any collateral in which any Prepetition Secured Party has a security interest in or Lien upon as of the Petition Date pursuant to any of the Prepetition Financing Documents. The term "Majority Secured Parties" means the holders of a majority of the outstanding Prepetition Senior Obligations.

46. The Debtors admit that (i) the Prepetition Liens constitute valid, binding, enforceable (other than in respect of the stay of enforcement arising from Bankruptcy Code section 362) and perfected Liens, (ii) the Prepetition Collateral is subject to no other Liens other than the Prepetition Liens and certain permitted Liens described in the Prepetition Financing Documents and (iii) the Prepetition Liens are not subject to avoidance, subordination, recharacterization or defense pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

47. It would appear that adequate protection may be required pursuant to Sections 361 and 363(e) of the Bankruptcy Code with respect to the Prepetition Collateral, including, without limitation, to compensate the Prepetition Secured Parties for any loss, diminution or damage resulting from the use of their respective interests in Cash Collateral (as defined below) or the use, sale or other disposition of their respective interests in the Prepetition Collateral and the imposition of the automatic stay.

48. The Majority Secured Parties have consented to the interim use by the Debtors of Cash Collateral and/or other Prepetition Collateral and the Junior Term Loan Agent has consented to PSC's use of the PSC Collateral on the terms and conditions of an Order granting this Motion, including without limitation the adequate protection arrangements contemplated by an Order granting this Motion.

49. The interim adequate protection arrangements have been negotiated in good faith and at arm's length, and the terms of such adequate protection arrangements are fair and reasonable under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and are supported by reasonably equivalent value and fair consideration.

50. The Debtors have requested prompt entry of an Order granting this Motion pursuant to Bankruptcy Rules 4001(b). The permission to enter into the adequate protection arrangements set forth herein is vital to avoid irreparable harm to the Debtors and their estates. Entry of an Order granting this Motion is in the best interests of the Debtors and their estates and creditors as its implementation will, among other things, allow for the continued operation of the Debtors' existing businesses.

51. The Debtors require the use of cash collateral in order to fund their operations, including the payment of payroll and various other budgetary expenses as indicated on Exhibit B attached hereto. The Debtors anticipate the need to use cash collateral in the aggregate amount of \$43,671,900 for the period from the Petition Date through June 25. Without access to such cash, the Debtors' operations would collapse.

2. *Motion for Order Pursuant to 11 U.S.C. §§ 363, 1107, and 1108 Authorizing (i) Maintenance of Existing Bank Accounts, (ii) Continued Use of Existing Business Forms, (iii) Continued Use of Cash Management System, and (iv) Approval of Investment Guidelines (the “Cash Management Motion”)*

52. The Debtors operate an integrated cash management system (the “Cash Management System”) that relies on intercompany accounting and intercompany movement of funds. The Cash Management System is an integrated, centralized network of approximately 52 bank accounts in the U.S. (the “Bank Accounts”) that facilitate the timely and efficient collection, concentration, management and disbursement of funds by the Debtors. The Debtors believe that substantially all of the Bank Accounts maintained are held at financially stable financial institutions with deposit insurance up to \$100,000 per account.

53. Substantially all cash generated by the Debtors’ operations is accumulated at PST and its subsidiary, Golden Sky Systems, Inc. (“GSS”) or PBT, and those Debtors fund the cash requirements for each of the other Debtors. PST and GSS generate approximately \$190 million of free cash flow annually, and fund substantially all the cash needs of the Debtors. For example, PST pays on behalf of its immediate parent company, Pegasus Media & Communications, Inc. (“PMC”) all of PMC’s annual debt service payments. In addition, to the extent that there is a shortfall between the interest earned on cash held in an account maintained with Fleet Bank, N.A. (“Fleet”) that collateralizes letters of credit issued by Fleet on behalf of Pegasus Letter of Credit Subsidiary, Inc. (“PLOC”) (a non-Debtor affiliate) for the benefit of the National Rural Telecommunications Cooperative (the “NRTC”) in connection with the Debtors DBS business and the applicable letter of credit fees payable to Fleet in respect thereof, PST funds such shortfall on a quarterly basis by manual wire transfer.

54. The Cash Management System operates entirely between affiliated entities. Indeed, each of the Debtors is a direct or indirect majority or wholly-owned subsidiary of Debtor Pegasus Satellite Communications, Inc. (“PSC”). Thus, the Debtors are “affiliates” as such term is defined in section 101(2) of the Bankruptcy Code.

55. Although the Cash Management System includes numerous accounts, the system has a logical structure that allows for efficient, centralized control of the Debtors’ cash flows.

56. In the normal course of business, nearly all of the Debtors’ funds related to its DBS business flow into and out of the two main satellite operating companies, PST and GSS, and the Debtors’ cash is consolidated into two central concentration accounts, one maintained by PST and one maintained by GSS, at Deutsche Bank Trust Company Americas (“Deutsche Bank”), Account No. 00-374-715 (the “PST Concentration Account”) and Account No. 00-390-707 (the “GSS Concentration Account”), and together with the “PST Concentration Account”, the “DBS Concentration Accounts”). The DBS Concentration Accounts are used to centralize the cash management and short-term investments for the various Debtors.

57. Because the Debtors’ revenues are primarily generated from the distribution of satellite television services to individual consumers, the Debtors’ primary sources of cash receipts are from checks and credit card payments. Substantially all of the cash receipts that are received through operations, consisting of checks, are deposited into lockbox accounts maintained by each of PST and GSS with Bank One (the “Bank One Depository Accounts”). A nominal amount of checks received are deposited into “over the counter” deposit accounts maintained at Fleet National Bank (the “Fleet Depository Accounts”). Both the Bank One Depository Accounts and the Fleet Depository Accounts are “pass through” accounts, with substantially all available funds on deposit in such accounts are

transferred on a daily basis via ACH, into the PST Concentration Account or GSS Concentration Account, as applicable, with settlement occurring the next business day. Credit card proceeds are deposited into the DBS Concentration Accounts on a daily basis. Various corporate receivables, such as direct-bill payments, are deposited directly into the applicable DBS Concentration Account. To the extent there are excess funds on deposit on the GSS Concentration Account at the end of each business day, such funds are automatically transferred by Deutsche Bank into the PST Concentration Account.

58. Each of PSC and PMC have certain accounts with PNC Bank (“PNC”) or Wachovia Bank, N.A. (“Wachovia”) which are maintained for specific purposes or disbursements. PSC maintains two account disbursement accounts with PNC that are funded through manual wire transfers from the PST Concentration Account on an as-needed basis. One such account is active; the second is dormant. PSC also maintains an investment account, the holdings of which are limited to debt and equity securities issued by PSC or Pegasus Communications Corporation (“PCC”), and which have been repurchased by the debtors.<sup>8</sup> PSC also maintains two separate restricted cash accounts with Wachovia. Both accounts at Wachovia are restricted short-term money market accounts that are also funded through manual wire transfers from the PST Concentration Account on an as-needed basis. PMC maintains one account, which is a short-term money market account, with PNC Bank that is in the process of being closed.<sup>9</sup>

59. On the disbursement side, the Cash Management System is again centralized through the DBS Concentration Accounts. Funds are either disbursed directly from the DBS

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<sup>8</sup> The debt securities issued by PSC and held in this account are effectively retired for financial reporting purposes, and the equity securities issued by PCC and held in this account are held at cost on PSC’s balance sheet but are eliminated for purposes of consolidation on PCC’s consolidated balance sheet.

<sup>9</sup> PMC reports the balance on deposit in this account as a restricted cash asset because the account holder, Pegasus Cable Television of Connecticut, has been dissolved.



Concentration Accounts or transferred from the DBS Concentration Accounts into disbursement accounts at Deutsche Bank that are used for various purposes, including manual payroll, accounts payable, and customer refunds. Disbursements made directly from the DBS Concentration Accounts are generally made by wire transfer or ACH debit. Disbursements made from the various Deutsche Bank disbursement accounts are generally made by check. These three types of disbursement accounts maintained by PST and GSS at Deutsche Bank are zero-balance accounts and are funded directly and automatically from the DBS Concentration Accounts on an as-needed basis.

60. In addition to the operational accounts described above, PST and GSS maintain a small amount of corporate administrative accounts. These administrative accounts are funded through manual wire transfers from the DBS Concentration Accounts on an as-needed basis. These accounts are maintained at Fleet Bank and Bank of America.<sup>10</sup>

61. Through the use of lockbox accounts for receipts and zero-balance accounts for disbursements, all of which are connected through the main DBS Concentration Accounts, the Cash Management System allows the Debtors to manage their cash needs effectively. Additionally, the Cash Management System allows the Debtors to consolidate and invest excess cash that remains in the system each evening. The particular investments made by the Debtors are done in accordance with the terms of the (i) that certain Amended and Restated Term Loan Agreement, dated as of August 1, 2003 (the “PSC Credit Agreement”), by and among Pegasus Satellite Communications, Inc., as “Borrower”, and the financial institutions party thereto from time to time as “Lenders”; (ii) that certain Credit Agreement dated as of December 19, 2003 (the “PMC Revolving Credit Agreement”) by and among Pegasus Media & Communications, Inc., as “Borrower”, the financial

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<sup>10</sup> PST also maintains a restricted bank account with Bank of America that cash collateralizes credit card transactions processed by Bank of America Merchant Services on behalf of PST.

institutions party thereto from time to time as “Lenders”, and Madeline, L.L.C., as “Administrative Agent”; and (iii) that certain Fourth Amendment and Restatement of Credit Agreement, dated as of October 22, 2003 (the “PMC Term Credit Agreement”, and collectively with the PSC Credit Agreement and the PMC Revolving Credit Agreement, the “Credit Agreements”), by and among Pegasus Media & Communications, Inc., as “Borrower”, the financial institutional party thereto from time to time as “Lenders”, and Bank of America, N.A., as “Administrative Agent”.

62. The Cash Management System employed by the Broadcast Debtors is substantially the same as that utilized by the Satellite Debtors, except that different financial institutions are participants.

63. In the normal course of business, nearly all of the Broadcast Debtors’ funds related to their business flow into and out of the main operating company, Pegasus Broadcast Television, Inc. (“PBT”), and the Broadcast Debtors’ cash is consolidated into a central concentration account maintained by PBT at Sovereign Bank (“Sovereign”), Account No. 2361051206 (the “PBT Concentration Account”)<sup>11</sup>. The PBT Concentration Account is used to centralize the cash management and short-term investments for the various locations of the Broadcast Debtors’ operating entities.

64. Because the Broadcast Debtors’ revenues are primarily generated from the airing of commercial during television programming, the Broadcast Debtors’ primary sources of cash receipts are from checks and credit card payments received from advertisers. Substantially all of the cash receipts that are received through operations, consisting of cash and checks, are deposited into

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<sup>11</sup> The Broadcast Debtors currently operate an identical cash management system with Wachovia Bank, N.A. However, all accounts maintained by the Broadcast Debtors with Wachovia are in the process of being closed pending the run-off of outstanding checks.

lockbox accounts maintained by PBT with Sovereign. The Sovereign lockboxes are zero balance accounts that are swept daily by automatic ACH in the PBT Concentration Account. Credit card proceeds are deposited into separate Sovereign zero balance accounts that are automatically transferred into the PBT Concentration Account on a daily basis. Various corporate receivables, such as equipment rental payments, are deposited directly into the PBT Concentration Account.

65. On the disbursement side, the Cash Management System is again centralized through the PBT Concentration Account. Funds are either disbursed directly from the PBT Concentration Account or transferred from the PBT Concentration Account into disbursement accounts at Sovereign that are used for various purposes, including manual payroll and accounts payable. Disbursements made directly from the PBT Concentration Account are generally made by wire transfer or ACH debit. Disbursements made from the various disbursement accounts at Sovereign are generally made by check (ACH debit in the case of the payroll account). The disbursement accounts maintained by PBT at Sovereign are zero-balance accounts and are funded directly and automatically from the PBT Concentration Account on an as-needed basis.

66. Through the use of lockbox accounts for receipts and zero-balance accounts for disbursements, all of which are connected through the main PBT Concentration Account, the Cash Management System allows the Broadcast Debtors to manage their cash needs effectively. Additionally, the Cash Management System allows the Broadcast Debtors to consolidate and invest excess cash that remains in the system each evening. The particular investments made by the Debtors are in accordance with the terms of the Credit Agreements, as defined above. Descriptions of the authorized investments and the related investment guidelines are provided in paragraphs 40-41 below.

67. On an as-needed basis, but generally not more than once a fiscal quarter, funds are transferred by manual wire into the PST Concentration Account from the PBT Concentration Account, depending in the cash needs of the Debtors.

68. The Debtors hereby seek authority to continue to use the Cash Management System. In light of the substantial size and complexity of the Debtors' operations, a successful reorganization of the Debtors' businesses, as well as the preservation and enhancement of the Debtors' respective values as going concerns, simply cannot be achieved if the Debtors' cash management procedures are substantially disrupted. Therefore, it is essential that the Debtors be permitted to continue to consolidate the management of their cash and transfer monies from entity to entity as needed, in the amounts necessary to continue the operation of their businesses and in accordance with their existing cash management procedures.

69. The Cash Management System, or one very similar to it, has been utilized by the Debtors for at least 5 years and constitutes a customary and essential business practice. The Cash Management System was created and implemented by the management of the Debtors in the exercise of their business judgment. The Cash Management System is similar to those commonly employed by corporate enterprises comparable to the Debtors in size and complexity. The widespread use of this type of cash management system, moreover, is attributable to the numerous benefits it provides, including the ability to (a) control and monitor corporate funds, (b) invest idle cash, (c) ensure cash availability and (d) reduce administrative expenses by facilitating the movement of funds and the development of timely and accurate account balance and presentment information. These controls are especially important here, given the significant volume of cash transactions – projected to aggregate approximately \$67 million per month – managed through the Cash Management System.

70. If the Debtors were forced to change their cash management system, it would cause needless disruption to the Debtors' business and significantly impede the Debtors' ability to make a relatively seamless transition into chapter 11. In addition, such a transition would cause the Debtors to incur substantial costs and deplete assets of the estate without providing any benefit to the Debtors' estates. Under the circumstances, the maintenance of the Cash Management System is both essential to the Debtors' business and in the best interests of the Debtors' respective estates. Accordingly, the Debtors respectfully request that the Court authorize the continued use of the Cash Management System.

71. In the ordinary course of business, the Debtors use approximately 52 different bank accounts maintained with seven financial institutions in their Cash Management System. Allowing these accounts to be maintained with the same account numbers will assist the Debtors in accomplishing a smooth transition to operations in chapter 11. Consequently, the Debtors seek a waiver of the requirement that the Debtors open new accounts.

72. To protect against the possible inadvertent payment of prepetition claims, all banks at which the Debtors maintain accounts and from which the Debtors make payments by check will be advised immediately not to honor checks issued prior to the Petition Date, except as otherwise ordered by the Court.<sup>12</sup> The Debtors, moreover, have instituted internal cut-off procedures to draw the necessary distinctions between pre- and postpetition obligations and payments without the need to close the Bank Accounts.

73. Parties doing business with the Debtors undoubtedly will be aware of the Debtors' status as debtors in possession as a result of the size and publicity surrounding the cases, the

press releases issued by the Debtors, and other press coverage. Moreover, if the Debtors were required to change their correspondence, business forms and checks, they would be forced to choose standard forms rather than the current forms with which the Debtors' employees, customers and vendors are familiar. Such a change in operations would create a sense of disruption and potential confusion within the Debtors' organization and confusion for the Debtors' customers and vendors. The Debtors believe that it would be extremely costly and disruptive to cease using all existing forms and to purchase and begin using new stationery, business forms and checks. The Debtors respectfully submit that to do so would be unnecessary and that appropriate care can be taken to assure the proper use of the existing forms. For these reasons, the Debtors request that they be authorized to use existing checks and business forms without being required to place the label "Debtor in Possession" on each.<sup>13</sup>

74. Considering the complexity of the Debtors' operations, it is necessary for the Debtors to conduct some transactions by wire transfer or ACH payment. Indeed, many of the Debtors' vendors rely on these non-paper transfers to facilitate their own cash management systems. Requiring the Debtors to cease all such electronic transfers postpetition would unnecessarily disrupt the Debtors' relationships with their vendors and create significant additional processing costs for the bankruptcy estates.

75. With respect to all disbursement accounts, the Debtors stopped issuing substantially all checks in the ordinary course of business on May 24, 2004 in order to ensure that, in the event a petition for relief were filed, substantially all of the checks issued prepetition would clear prior to the Petition Date. With respect to all such accounts, on the Petition Date the Debtors will

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<sup>13</sup> Following the Petition Date, the Debtors will have new checks printed with the designation "DIP" or "Debtor in Possession" as soon as reasonably practicable.

provide the financial institutions at which the Debtors' disbursement accounts are held with (i) the last check numbers issued and (ii) a subsequent check number skipping to an easily identifiable round number, from which the Debtors will commence issuing checks for debts incurred postpetition.

76. As part of the Cash Management System, the Debtors use numerous bank depository and disbursement accounts, as well as certain investment accounts. The Debtors' investment of excess unrestricted cash has been dictated for the most part by the requirement of the Credit Agreements. Pursuant to the terms of the Credit Agreements, the Debtors can invest excess cash in "Cash Equivalents" (as defined in the Credit Agreements). Currently, the Debtors excess unrestricted cash is on deposit with Deutsche Bank in DBS Concentration Accounts, or in a short-term money market account maintained by PST with Scudder Investments. If excess cash remains in the DBS Concentration Account at the end of each business day, Deutsche Bank automatically transfers such funds to an overnight investment account at Deutsche Bank. However, to obtain a better return on their investment, the Debtors can manually wire transfer funds from the PST Concentration Account to the Scudder money market account (which is managed by Deutsche Bank). Deposits in the Deutsche Bank overnight account mature on the business day following the day of deposit and are then returned, with interest, to the PST Concentration.

77. The Debtors' depository and disbursement accounts with balances in excess of \$5,000 are all held at financial institutions with a Moody's Ratings of "Baa" or better. The Debtors will monitor monthly the Moody's ratings of all Debtors' banks with account balances in excess of \$5,000 and will advise the Court if any such rating drops below a "Baa" rating by Moody's. Additionally, the Debtors will insure that any new accounts that are opened postpetition will be with banks that have achieved ratings of "Baa" or better.

78. The Debtors in the instant case are large, complex and sophisticated organizations that are financially connected through a structured and efficient Cash Management System. The Debtors have ample ability to transfer funds between accounts as needed to ensure the safety of the funds. Furthermore, the Debtors investment activities are made in accordance with the Credit Agreements among the Debtors and their prepetition lenders, whose interest is ensuring that the Debtors' assets are not dissipated. Consequently, the Debtors assert that sufficient cause exists to waive the § 345(b) requirements in these cases.

79. The Debtors propose to make investments only as noted above. Consistent with the objectives of Section 345 and the requirements of the Credit Agreements, the Debtors respectfully request authority to invest and deposit funds in a safe and prudent manner in accordance with the Credit Agreements and with the Debtors' prepetition practices, notwithstanding that such investments may not strictly comply in all respects with strictures of § 345(b) of the Bankruptcy Code.

80. Another benefit of the Cash Management System relates to intercompany transactions. From the PST Concentration Account and the PBT Concentration Account, the Debtors fund certain intercompany transactions involving intercompany trade and intercompany capital needs of the Debtors (collectively, the "Intercompany Transactions"). Intercompany trade relates to the transaction of goods and services between various Debtors. The intercompany capital needs are transactions through which PST and PBT fund certain working capital needs of their subsidiaries. The Debtors also seek authority to continue making intercompany payments to non-Debtor affiliates through a separate, concurrently filed motion.<sup>14</sup>

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<sup>14</sup> Pegasus Communications Management Company ("PCMC") is a non-Debtor affiliate of the Debtors. Reimbursements made to PCMC are disbursed from the DBS Concentration Accounts, in accordance with the terms of the Services



81. The Cash Management System relies on intercompany accounting and intercompany movement of funds. As described above, substantially all operating cash receipts flow to the DBS Concentration Accounts and the PBT Concentration Account. In turn, the great majority of the cash disbursements in the U.S. are made out of DBS and PBT concentration and disbursement accounts. Each of the movements or payments (or establishment of the payables) involving affiliated Debtor entities is recorded as an Intercompany Transaction on the applicable entity's ledger. Specifically, the various Debtor entities are allocated for their expenses or capital needs, either directly when invoices are sent to the entity and recorded in the accounts payable system, or indirectly as accruals recorded on the subsidiary's ledger. Any amount entered into the accounts payable system results in a charge to the subsidiary and a credit (recognition of a liability) in an intercompany payable account. At PST, a payable is recorded and an intercompany receivable is charged to offset the liability at the affiliate company. When amounts are disbursed, the liability that was transferred to PST is relieved and a credit for the cash disbursement is recorded.

82. The Intercompany Transactions are an integral part of the Cash Management System and critical to meeting the liquidity needs within the Debtors' organization. Because the Debtors are part of an integrated business, throughout the entirety of these transactions, the funds remain within the spectrum of the Debtors' control. Furthermore, the Cash Management System allows for the accurate tracking and tracing of all Intercompany Transactions.

83. The Debtors believe that the continuation of the Intercompany Transactions is beneficial to their estates and creditors and, thus, that the Intercompany Transactions should be permitted. Furthermore, the loss of liquidity within the Debtors' organization provided by the

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Support Agreement which is the subject of a motion filed concurrently herewith. No funds are disbursed by the Debtors to any non-Debtor affiliate other than (i) pursuant to the terms of the Services Support Agreement or (ii) to the letter of credit subsidiary described in paragraph 11 of the Cash Management Motion.

Intercompany Transactions would threaten the ability of the Debtors to reorganize successfully. Accordingly, the Debtors submit that the continuation of the Intercompany Transactions is in the best interests of the Debtors' estates and the creditors.

84. If the Court authorizes continuation of the Intercompany Transactions, at any given time there may be balances due and owing from one Debtor to another. These balances represent extensions of intercompany credit. The Debtors have maintained and will continue to maintain records of such transfers, including records of all current intercompany accounts receivable and accounts payable.

85. To ensure that each individual Debtor will not, at the expense of its creditors, fund the operations of another entity, the Debtors respectfully request that, pursuant to Sections 364(b) and 503(b)(1) of the Bankruptcy Code, all intercompany claims against a Debtor by another Debtor arising after the Petition Date as a result of Intercompany Transactions through the Cash Management System (collectively, "Intercompany Claims") be accorded administrative expense priority status. If Intercompany Claims are accorded such priority status, each entity utilizing funds flowing through the Cash Management System will continue to bear ultimate repayment responsibility for such borrowings.

3. *Motion for Order Authorizing: (i) Payment of Prepetition Employee Wages, Salaries and Related Items; (ii) Reimbursement of Prepetition Employee Business Expenses; (iii) Prepetition Contributions and Payment of Medical and Similar Benefits; (iv) Payment of Workers' Compensation Obligations; (v) Payments for which Payroll Deductions were Made; (vi) Payment of all Costs and Expenses Incident to the Foregoing Payments and Contributions; and (vii) the Continuation of Certain Employee Programs (the "Employee Wage/Benefits Motion")*

86. The Debtors employ 329 salaried employees and 613 hourly employees (collectively, the "Employees"). The continued and uninterrupted service of the Employees is

essential to the Debtors' continuing operations and a successful chapter 11 process. To minimize the personal hardship the Employees will suffer if prepetition Employee-related obligations are not paid when due, and to maintain the Employees' morale during this critical time, the Debtors, by this Motion, seek authority: (i) to pay all prepetition Employee claims for wages, salaries, contractual compensation, bonuses, sick pay, personal pay, holiday pay, vacation pay and accrued compensation; (ii) to make all payments for which Employee payroll deductions were made; (iii) to reimburse all prepetition Employee business expenses; (iv) to make prepetition contributions and pay benefits under certain Employee benefit plans; (v) to honor workers' compensation obligations; (vi) to pay other miscellaneous Employee-related costs; and (vii) to continue Employee programs with respect to vacations, sick, personal and holiday leave and certain health, welfare, savings and other benefit programs as described more fully below (collectively, the "Employee Programs").

87. The Debtors also (i) request the Court to authorize and direct applicable banks and other financial institutions to receive, process, honor and pay all prepetition checks and transfers drawn on the Debtors' payroll accounts to make the foregoing payments, and (ii) seek authority to pay all processing costs and administrative expenses related to the foregoing payments. I believe that, with the exception of their self-insured programs for Health Benefits (as such term is defined below), any payments that will be made in connection with prepetition wages, salary, other compensation and benefit programs, will not exceed the sum of \$4,925 per employee allowable as a priority claim under sections 507(a)(3) and (4) of the Bankruptcy Code.

**SUMMARY OF THE DEBTORS'  
PREPETITION EMPLOYEE OBLIGATIONS**

**Wages, Salaries, and Other Compensation**

88. The average monthly payroll for the Debtors' salaried and hourly Employees is approximately \$3.2 million.<sup>15</sup> The Employees are paid through a bi-weekly payroll cycle where certain Employees are paid one week in arrears and certain Employees are paid in-real-time (current) terms. The Debtors employ the services of Ceridian Corporation ("Ceridian") to calculate and issue the Employees' paychecks and direct deposits. These paychecks and direct deposits are drawn on Ceridian bank accounts. The Debtors most recently paid Ceridian in the normal course of business on June 2, 2004. The Debtors estimate that the outstanding unpaid wages, salaries and other compensation owed to the Employees and to the Contract Workers is approximately \$293,000.

**Vacation, Sick, Personal Leave and Holidays**

89. The Employees are covered by the Debtors' vacation policy (the "Vacation Policy"). Under the Vacation Policy, full-time Employees are eligible for up to four weeks of paid vacation annually depending upon the number of hours worked, position, and number of years of credited service. Part-time Employees accrue vacation time on a pro-rated basis in accordance with the number of hours worked during a pay period (excluding overtime hours), not to exceed ten (10) days per calendar year. The Employees, subject to approval, may carry over up to five (5) accrued and unused vacation days to the next calendar year. Upon termination of their employment, the Employees are entitled to a cash payout for any accrued and unused vacation time. The total annual cost to the Debtors for the Employees' vacation time under the Vacation Policy is approximately \$1.3 million. The Debtors do not anticipate a payout for unused vacation days as of the Petition Date.

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<sup>15</sup> This amount includes seven (7) contract workers who provide certain financial services to the Debtors (the "Contract Workers").

90. The Debtors also provide full-time and part-time Employees with sick pay benefits in the event that an Employee becomes ill and is unable to work. Regular, full-time Employees accrue sick time each pay period in accordance with the number of hours they are scheduled to work per week, up to a maximum of five (5) days per calendar year. Part-time Employees accrue sick time on a pro-rated basis in accordance with the number of hours they work during the pay period (excluding overtime hours), not to exceed five (5) days per calendar year. In addition to sick leave, full and part-time Employees receive up to four (4) personal days per calendar year. The total annual cost to the Debtors for the Employees' sick and personal leave is approximately \$600,000 and \$475,000, respectively for an aggregate of \$1.075 million, and is included in gross payroll. Accrued and unused sick and personal days do not carry over to the following calendar year, and Employees are not entitled to a cash payout for such accrued and unused time upon termination of their employment or otherwise.

91. Employees have the following paid holidays each year: New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. If an hourly Employee is scheduled to work one of these holidays, the Employee is entitled to receive holiday pay equal to one day's pay in addition to the Employee's otherwise applicable hourly salary for that day.

### **Reimbursable Business Expenses**

92. In the ordinary course of the Debtors' business, Employees may incur a variety of business expenses that are typically reimbursed by the Debtors pursuant to their normal business practices. The reimbursable business expenses incurred by the Employees include business travel expenses and entertainment expenses (collectively, the "Reimbursable Business Expenses"). All Reimbursable Business Expenses were incurred with the understanding that they would be

reimbursed by the Debtors. As of the Petition Date, I believe that there are no monies owing with respect to Reimbursable Business Expenses.

### **Insurance Benefits**

93. In the ordinary course of their business, the Debtors provide medical, prescription drug, dental and vision insurance, life insurance, long-term disability, accidental death and dismemberment insurance and other related insurance to their Employees.<sup>16</sup>

#### **A. Medical, Prescription Drug, Dental and Vision Programs**

94. The Debtors provide their full-time Employees -- at a substantially reduced cost -- with certain medical, prescription drug, dental and vision insurance programs through various providers (collectively, the "Health Benefits"). Specifically, full-time Employees, who have served two full calendar months, are offered (i) medical insurance and prescription drug coverage benefits through Independence Blue Cross,<sup>17</sup> (ii) dental insurance benefits through Aetna, and (iii) vision insurance benefits through HighMark Blue Shield. The majority of the Health Benefits are self insured with premiums being paid by PCMC on behalf of the Debtors and reimbursed by the Debtors in accordance with the terms of the Support Services Agreement.

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<sup>16</sup> The Debtors' Insurance Benefits described in this section are provided pursuant to certain contracts between Pegasus Communications Corporation ("PCC") and the relevant third-party insurance provider. Aggregate amounts referenced herein incorporate amounts in connection with providing insurance benefits to the Debtors' Employees as well as employees of the Debtors' non-debtor affiliates. The allocation of such costs will be addressed in the Debtors' Motion to Continue Performing Under the Support Services Agreement (the "Support Services Agreement") between Operating Affiliates (as defined therein) and Pegasus Communications Management Company ("PCMC") (the "Support Services Motion") filed concurrently herewith.

<sup>17</sup> PCMC, partially on behalf of the Debtors, is required to maintain a cash reserve with Independence Blue Cross in connection with insurance benefits provided. As of the Petition Date, PCMC, partially on behalf of the Debtors, has posted a reserve of approximately \$823,000. Also, because the Debtors are self-insured, Independence Blue Cross requires that the Debtors carry stop-loss

95. The average monthly cost for all these Health Benefits is approximately \$437,500 (comprised of \$360,000 for medical insurance, \$40,000 for prescription drug coverage, \$30,000 for dental insurance benefits, \$7,500 for vision insurance benefits) of which approximately 26% is withheld from Employee payroll on average as their required contributions to the various Health Benefit plans. The largest portion of such amount relates to monthly claims made in respect of medical insurance, which typically runs three months in arrears. Thus, as of the Petition Date, the Debtors estimate that accrued payables with respect to the Health Benefit plans may aggregate approximately \$1.6 million to be paid over time in the ordinary course.

B. Life and Disability Insurance Programs

96. The Debtors provide their active full-time Employees with certain life and disability insurance programs. Particularly, Employees, who have been employed for two full calendar months and who work a minimum of 35 hours per week, are offered (i) life and accidental death and dismemberment insurance and (ii) long term disability insurance, both of which are underwritten by Unum Life Insurance Company of America (“Unum Life”). Those insurance policies are 100% employer paid and begin on the first of the month after two full calendar months of employment for eligible Employees. As of the Petition Date, the Debtors have no amounts owing to Unum Life.

C. Other Insurance Benefits

97. The Debtors also offer their active full-time Employees certain other optional insurance benefits which are wholly paid by the Employees choosing to enlist such benefits. Specifically, the Debtors offer term life insurance, whole life insurance, dependent life insurance,

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insurance. The Debtors maintain such insurance through Lincoln Re Management Services (“Lincoln”). As of the Petition Date, the Debtors have no amounts owing to Lincoln.

critical care insurance and short-term disability insurance, all of which are provided by UnumProvident Corporation. Those benefits begin on the first of the month after two full calendar months of employment for eligible Employees, with applicable premium amounts being withheld by the Debtors from their Employees' paychecks and subsequently forwarded to the appropriate third-party recipients. As of the Petition Date, I believe there are no amounts owing to UnumProvident Corporation.

### **Savings Plan**

98. The Debtors have a defined savings plan for their Employees, which is qualified under section 401(k) of the Internal Revenue Code (the "Savings Plan"). The Saving Plan is administered by Prudential Investment Management Services LLC. All active Employees who have completed at least one full calendar month of service following their date of hire are eligible to participate in the Savings Plan. Pursuant to the Savings Plan, the Debtors deduct the appropriate amounts from each participating Employee's payroll check and transfer the withheld funds to the plan trustee. Additionally, under the Savings Plan, the Debtors provide matching contributions, in PCC common stock, equal to 100% of each participating Employee's pre-tax contribution up to 6% of the Employee's annual base salary.<sup>18</sup> I believe that, as of the Petition Date, no amounts are owing with respect to amounts deducted from their Employees' paychecks but not yet remitted to the third-party recipients, and all matching contributions with respect to such deductions have been made.

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<sup>18</sup> PCC will be paid for the value of the PCC shares granted under the Debtors' Savings Plan. Such payment may occur via a credit to PCC under the Support Services Agreement and a corresponding debit to the relevant Debtor under such Agreement.



### **Employee Stock Purchase Plan**

99. The Debtors offer their Employees, following thirty (30) days of employment, the opportunity to participate in their employee stock purchase plan (the “Stock Purchase Plan”).<sup>19</sup> Pursuant to the Stock Purchase Plan, which is administered by Wachovia, eligible Employees may opt to purchase stock in PCC, at a 15% discount, in an amount of up to 10% of their basic rate of compensation for each payroll period. The Debtors deduct the after-tax amount of such contribution from each participating Employee’s payroll check and on or around the last business day of a calendar quarter, the contribution amount deducted from a participating Employee’s paycheck is applied towards the purchase of PCC stock. As of the Petition Date, the estimated contribution amount deducted from paychecks of Employee’s participating in the Stock Purchase Plan, but not yet applied towards the price of PCC stock is approximately \$24,000.

### **Workers’ Compensation Obligations and Related Insurance**

100. Under the laws of the various jurisdictions in which they operate, the Debtors are required to maintain workers’ compensation policies and programs to provide Employees with workers’ compensation coverage for claims arising from or related to their employment with the Debtors.<sup>20</sup> Accordingly, the Debtors maintain workers’ compensation programs in all states in which they operate, pursuant to the applicable requirements of local law.

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<sup>19</sup> PCC will be paid for the value of the PCC shares granted under the Debtors’ Stock Purchase Plan. Such payment may occur via a credit to PCC under the Support Services Agreement and a corresponding debit to the relevant Debtor under such Agreement.

<sup>20</sup> Certain of the costs associated with the workers’ compensation coverage are allocated among the Debtors pursuant to the terms of the Support Services Agreement.

101. The Debtors currently insure their workers' compensation liabilities pursuant to a policy between PCC and Hartford Underwriters Insurance Company ("Hartford").<sup>21</sup> Pursuant to the policy, Employees seeking reimbursement for work-related injuries file an incident report with the Debtor entity where such injury occurred. Hartford, in turn, investigates and determines which claims are meritorious. Currently, there are six workers' compensation claims pending against the Debtors, reserved at total of \$45,346. Because the Hartford policy does not have a cap or deductible, as of the Petition Date, there are no amounts owing by the Debtors with respect to workers' compensation claims.

### **Severance Benefits**

102. The Debtors provide certain severance benefits (the "Severance Plan") to their Employees who have been involuntarily terminated for reasons other than unsatisfactory performance. The applicable amount of severance benefit under the Severance Plan is as follows: (i) non-exempt staff is two weeks of base pay for each year of service with a minimum of two weeks; (ii) exempt staff is two weeks of base pay for each year of service with a minimum of four weeks; (iii) manager is 13 weeks of base pay; (iv) director is 26 weeks of base pay; (v) vice president is 52 weeks of base pay, (vi) senior vice president and above -- are determined on an individual basis but typically range from 18 to 24 months of base pay. The Debtors are currently paying severance benefits for three (3) former employees and as of the Petition Date, the estimated outstanding liability with respect to same is approximately \$20,000.

103. I believe that continuing the Severance Plan solely with respect to staff (the "Staff Severance Program") is vital to the retention of such Employees and any interruption in this

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<sup>21</sup> In North Dakota and Ohio, which are monopolistic states, coverage is provided through the State.

program would severely harm the Debtors' estates.<sup>22</sup> The majority of the Employees eligible for the Staff Severance Program work in the Debtors call centers which directly service the Debtors' customer base and are thus critical to the Debtors' operations.

104. Because call center representatives are among the lowest paid employees in any business, such employees are primarily concerned with ensuring that they can meet the financial obligations for themselves and their families. Moreover, since there are few, if any, barriers to leaving this type of job, turnover among this group of Employees could be higher than other employee groups because of the uncertainties of bankruptcy and because customer care jobs are relatively easy to find in the Debtors' operational locations. Accordingly, without the continuation of the Staff Severance Program, certain Employees may seek more certain, alternative employment, and, thus, maintaining the Staff Severance Program is critical to the Debtors' business operations going forward.

### **Payroll Taxes and Deductions**

105. The Debtors make bi-weekly payments to Ceridian to cover all outstanding tax obligations relating to employee and employer payroll taxes. Ceridian is responsible for filing and making payments to the appropriate federal, state and local taxing authorities. The estimated amount of the Debtors' accrued employee and employer payroll taxes which have not been forwarded to Ceridian as of the Petition Date is approximately \$74,000. The employee portion is included in the gross pay of the Employees.

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<sup>22</sup> The Debtors are seeking authority to continue the Severance Plan with respect to their remaining Employees pursuant to a Motion Authorizing the Assumption of the Debtors' Incentive Programs and Management Severance Program.

## **Other Benefits**

106. The Debtors provide a number of other miscellaneous benefits (collectively, the “Miscellaneous Benefits”) to certain Employees. Specifically, the Debtors offer their new full-time Employees 50 options on PCC stock and their part-time Employees 25 options.<sup>23</sup> Additionally, the Debtors offer their full-time Employees who have been employed one year, an educational assistance program of up to \$2,500 per calendar year to pursue career-related educational course work at accredited institutions. The Debtors also provide their Employees with an assistance program offering confidential counseling services. Moreover, the Debtors offer qualified Employees paid leave for jury duty, bereavement and certain military duties. I believe that there are no amounts owing as of the Petition Date for the Miscellaneous Benefits.

107. I believe that as of the Petition Date, there are no monies owing with respect to the various costs incident to maintaining, or paying third parties to maintain and provide, record keeping and other administrative services relating to the various Employee benefits programs identified herein (the “Prepetition Processing Costs”).<sup>24</sup>

108. The Debtors seek the relief requested in this Motion because any delay in paying the Employee-related compensation, deductions, reimbursement and benefit plans described herein (collectively, the “Employee Obligations”) could severely disrupt the Debtors’ relationship with the Employees and irreparably impair the Employees’ morale at the very time that their dedication, confidence and cooperation are most critical. The Debtors face the risk that their

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<sup>23</sup> PCC will be paid for the value of the PCC options, based upon the application of the Black-Scholes model or another appropriate option pricing model. Such payment may occur via a credit to PCC under the Support Services Agreement and a corresponding debit to the relevant Debtor under such Agreement.

<sup>24</sup> Certain of the costs associated with the Prepetition Processing Costs are allocated among the Debtors pursuant to the terms of the Support Services Agreement.

operations may be severely impaired if the Debtors are not immediately granted authority to pay the Employee Obligations. At this critical stage, the Debtors simply cannot risk the substantial disruption of their business operations that would attend any decline in workforce morale attributable to the Debtors' failure to pay the Employee Obligations in the ordinary course of their businesses.

109. If the relief requested herein is not granted, the Employees would suffer great hardship and, in many instances, financial difficulties, since these monies are needed to enable them to meet their personal obligations. In addition, without the requested relief, the Debtors' stability would be undermined by the potential threat that otherwise loyal Employees at all levels would seek other employment.

110. Accordingly, I believe the relief requested in this Motion is necessary for the successful reorganization of the Debtors' business operations.

4. *Motion for Entry of an Order (i) Prohibiting Utilities from Altering, Refusing or Discontinuing Service; and (ii) Establishing Procedures for Determining Adequate Assurances (the "Utilities Motion")*

111. In the ordinary course of their businesses, the Debtors use gas, water, electric, telephone and other utility services provided by a multitude of utility companies

112. The number of Utility Companies and their various locations make it impracticable within the 20-day period provided for in section 366 of the Bankruptcy Code for the Debtors to contact all of the Utility Companies and to obtain assurances that they will not discontinue services. These services are essential to the Debtors' ongoing business operations and the Debtors cannot provide their services to their customers without the services provided by the Utility Companies. If the Utility Companies are permitted to terminate services twenty days after the

Petition Date, the Debtors would be forced to cease doing business, to the severe detriment of their estates, creditors, customers and employees.

113. The Debtors submit that it is impracticable and entirely unnecessary to require the Debtors to provide security deposits to the Utility Companies. Prior to the Petition Date, the Debtors had solid payment histories with the Utility Companies, consistently making payments on a regular and timely basis. To the best of the Debtors' knowledge, as of the Petition Date, there were no defaults with respect to utility bills, nor have there been any such defaults historically. In addition, there were no arrearages of any significance, other than amounts not yet due or invoiced. Furthermore, the Debtors believe they will have sufficient funds with which to remain current on any postpetition obligations to the Utility Companies.

5. *Motion of the Debtors and Debtors in Possession Pursuant to 11 U.S.C. § 363 For Interim and Final Orders Authorizing the Debtors to Continue Performing Under the Support Services Agreement With Pegasus Communications Management Company (the "Support Services Agreement Motion")*

114. By the Motion, the Debtors seek authority to continue using, on an interim basis and subject to a final hearing, the services of PCMC pursuant to the terms of the Agreement (as such term is defined below) and paying for same on a post-petition basis, with such post-petition obligations to PCMC being afforded administrative expense status under 11 U.S.C. §§ 503(b) and 507(a)(1). Although I believe that the use of PCMC's services pursuant to the terms of the Agreement is a transaction in the ordinary course of their business, out of an abundance of caution, the Debtors are seeking the relief requested herein as PCMC, the non-debtor party to the Agreement, is an affiliate of the Debtors.<sup>25</sup>

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<sup>25</sup> The Debtors, at this time, are not seeking to assume or reject the Agreement but reserve all rights to seek further authority to assume or reject the same at a later date in these chapter 11 cases.

115. Each of the Debtors and their non-debtor affiliates (collectively, the “Operating Affiliates”)<sup>26</sup> herein, and PCMC, a non-debtor affiliate, are parties to a certain Support Services Agreement executed on June 2, 2004 and effective as of May 1, 2004 (the “Agreement”). The Agreement memorializes the structure and services of the informal agreement that existed for at least five (5) years before its execution. In anticipation of these chapter 11 cases, the Debtors concluded that it was necessary to formalize an allocation methodology that would conform to their postpetition corporate structure, i.e., a structure that includes both debtor and non-debtor affiliates. The Agreement contains an allocation method that I believe is appropriate.

116. Pursuant to the Agreement, PCMC provides the following types of services to the Operating Affiliates:

Accounting and Financial Reporting;

Cash and Treasury Management;

Communications -- Investor Relations and Corporate;

Employee Benefit Plan Management;

Engineering and Research and Development;

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<sup>26</sup> The Operating Affiliates include: Argos Support Services Company; B.T. Satellite, Inc. Bride Communications, Inc.; Carr Rural TV, Inc.; DBS Tele-Venture, Inc.; Digital Television Services of Indiana, LLC; PBT Holding, Inc.; Pegasus Broadcast Television I, Inc.; Pegasus Satellite Finance Corporation; Pegasus Satellite Television I, Inc.; DTS Management, LLC; Golden Sky DBS, Inc.; Golden Sky Holdings, Inc.; Golden Sky Systems, Inc.; Henry County MRTV, Inc.; HMW, Inc.; Pegasus Broadcast Associates, L.P.; Pegasus Broadcast Television, Inc.; Pegasus Broadcast Towers, Inc.; Pegasus Communications Corporation; Pegasus Communications Corporation PAC; Pegasus Communications Management Company; Pegasus Development 107 Corporation; Pegasus Development 107 License Corporation; Pegasus Development 9182 Corporation; Pegasus Development Corporation; Pegasus Development DBS Corporation; Pegasus Guard Band, LLC; Pegasus Letter Of Credit Subsidiary, Inc.; Pegasus Media & Communications, Inc.; Pegasus Real Estate Company; Pegasus Rural Broadband, LLC; Pegasus Rural Television, LLC; Pegasus Satellite Communications Holdings, Inc.; Pegasus Satellite Communications, Inc.; Pegasus Satellite Development Corporation; Pegasus Satellite Television of Illinois, Inc.; Pegasus Satellite Television, Inc.; Pegasus Travel, Inc.; PMC Satellite Development, LLC; Portland Broadcasting, Inc.; Primewatch, Inc.; PST Holdings, Inc.; Satellite Access Corporation; South Plains DBS, L.P.; Telecast of Florida, Inc.; WDSI License Corporation; WFXU Corporation; WFXU License Corporation; WGFL Corporation; WGFL License Corporation; WILF, Inc.; Wolf License Corporation; WPME Corporation; WPME License Corporation; and WTLH License Corporation.

Pursuant to Section 6(n) of the Support Services Agreement, any Affiliate (as defined therein) may join the Support Services Agreement by executing an Affiliate Agreement (as defined therein).

Executive and Staff Administration;  
Financial Planning and Analysis;  
General and Administrative Services;  
Global Sales and Service;  
Government Operations;  
Human Resources and Administration;  
In-House Legal Administration;  
Insurance;  
Payroll Management;  
Purchasing, Procurement and Transportation Administration;  
Quality Assurance;  
Systems Administration;  
Tax Services; and  
Miscellaneous Services and Costs

(collectively, the “Support Services”). See Agreement, Attachment B.

117. The Operating Affiliates compensate PCMC for the Support Services based upon the actual cost (including direct and indirect costs) to PCMC for the provision of same. The amount PCMC charges the Operating Affiliates for the Support Services is based upon an estimate of the level of effort devoted by PCMC to each of the Operating Affiliates, including: (i) the cost of compensation of each Operating Affiliate compared to total cost of compensation of all Operating Affiliates; (ii) the net assets employed by each Operating Affiliate compared to total net assets of all Operating Affiliates; (iii) the net revenue generated by each Operating Affiliate compared to total net revenue generated by all Operating Affiliates; or (iv) other similar allocation methods. See Agreement, Attachment B.



118. More specifically, the methodology for allocating PCMC's costs for the Support Services under the Agreement may be broken down into two tiers. The first tier is allocated based upon aggregate salaries for employees (excluding PCMC employees) as follows: (i) 7% to Pegasus Communications Corporation based upon aggregate salaries for employees of Pegasus Development Corporation and its WiBand division, and (ii) 93% to PSC and its subsidiaries based upon aggregate salaries for the employees of PST and Pegasus Broadcast Television, Inc. Under the second tier, the Debtors further allocate the 93% allocated to PSC under the first tier to the Debtors based upon net revenue as follows: (i) 97% is allocated to the Debtors' Satellite division, and (ii) 3% is allocated to the Debtors' Broadcast division.<sup>27</sup>

119. The Debtors estimate that the aggregate cost for PCMC's Support Services provided to the Debtors under the Agreement is approximately \$1.9 million per month, while the aggregate cost for PCMC's Support Services provided to non-debtor affiliates of the Debtors is approximately \$140,000 per month.

120. Pursuant to the Agreement, the Operating Affiliates and PCMC also share the costs for certain services and benefits. Such services and benefits include:

Employee Bonuses and Compensation;

Employee Stock Purchase Plan;

Healthcare, Medical, Insurance and Other Employee Welfare Plans;

Property and Casualty Insurance;

Office Space;

Telecommunication Services;

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<sup>27</sup> PCC will be paid for any PCC stock or options provided to the Debtors' employees under the Debtors' Employee Stock Purchase Plan, Long-Term Incentive Program or other compensation plans. Such payment may occur via a credit to PCC under the Agreement and a corresponding debit to the relevant Debtor under the Agreement.

401(k) Plan; and

Other Miscellaneous Shared Services

(collectively, the “Shared Services” and together with the Supporting Services, the “Services”). See Agreement, Attachment B.

121. Charges for the Shared Services are based upon each Operating Affiliate’s (including the Debtors) share of actual costs (including direct and indirect costs) incurred by PCMC in the performance of such services. See Agreement, Attachment B.

122. The Debtors estimate that the aggregate cost for PCMC’s Shared Services provided to the Debtors under the Agreement is approximately \$800,000 per month, while the aggregate cost for PCMC’s Shared Services provided to non-debtor affiliates of the Debtors is approximately \$250,000 per month.

123. The Debtors’ receipt of PCMC’s Services under the Agreement is necessary and critical to the Debtors’ daily business operations as well as the successful reorganization of the Debtors’ chapter 11 cases. Without the provision of such Services by PCMC, the Debtors would be forced to either perform the Services themselves or outsource them to third-parties -- neither of which are economically viable options.

124. The Debtors estimate that it would be far more costly to perform the Services themselves. Indeed, performing the Services themselves would require the Debtors to expend valuable time and money in order to familiarize and train the Debtors’ employees with the numerous and varied tasks performed in connection with the Services. Additionally, saddling the Debtors’ employees with additional tasks at this critical time would essentially divert their attention from their assigned responsibilities and ultimately the reorganization efforts at hand. Moreover, outsourcing the

Services is not a viable, cost-effective option. Indeed, since PCMC merely charges the Debtors its share of the costs to perform the Services rather than being profit-based -- as a third-party would be -- I do not believe that any other party would perform the Services at a rate cheaper than the one provided for in the Agreement. Thus, I believe that the continuation of the Agreement is a cost-efficient vehicle for the Debtors to receive services necessary to their daily business operations and reorganization efforts. Accordingly, continuation of the Agreement is in the best interest of Debtors' estates and creditors.

125. As noted, the continuation of the Agreement is an essential and economical alternative to the Debtors performing the Services for themselves, and is thus a sound exercise of their business judgment. As such, the Debtors should be authorized to continue performance under the Agreement on an interim b

6. *Motion of the Debtors and Debtors in Possession for an Order Authorizing, But Not Directing, the Debtors to (i) Honor Certain Prepetition Obligations to Customers, and (ii) Continue Their Prepetition Customer Policies and Promotional Programs (the "Customer Programs Motion")*

126. Prior to the Petition Date and in the ordinary course of their businesses, the Debtors engaged in certain practices to develop and sustain positive reputations in the marketplace for their products and services. Among these practices have been warranties, rebates, alleged defective product return policies, and other similar programs, practices and commitments directed at customers. Several of these Customer Practices are described in greater detail below.<sup>28</sup> The common goals of the Customer Practices have been to meet competitive pressures, ensure customer satisfaction, and generate goodwill for the Debtors – thereby retaining current customers, attracting new ones, and ultimately enhancing net revenue.

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<sup>28</sup> Part I.B.(v), supra, contains a discussion of the Satellite Debtors' customer programs related to the Customer Practices.

127. By the Customer Programs Motion, the Debtors respectfully request an order authorizing, but not directing, the Debtors, in their business judgment, to (i) perform such of their prepetition obligations related to the Customer Practices as they see fit, and (ii) continue, renew, replace, implement new, and/or terminate such of the Customer Practices as they see fit, in the ordinary course of business, without further application to the Court. Accordingly, the Debtors desire to continue during the postpetition period those Customer Practices that they believe were beneficial to their businesses and cost-effective during the prepetition period. The Debtors believe that such relief is necessary to preserve, during the postpetition period, their critical business relationships with their 1.1 million customers and goodwill for the benefit of the estates.

128. In light of the fact that some of the Customer Practices, as they relate to prepetition agreements regarding the Debtors' products and services, may represent unperformed prepetition obligations of the Debtors and may evidence prepetition claims against the Debtors, the Debtors seek this Court's authorization to perform its obligations related to Customer Practices.

129. The Debtors estimate that the aggregate cost of performing their prepetition obligations in regard to the Customer Practices will be approximately \$1,241,027, with the exception of those services for which customers have prepaid prior to the Petition Date. Most, if not all, of the estimated costs detailed herein will be incurred by the Debtors in the form of replacement products and credit obligations. Accordingly, the Debtors submit that the cash outlay required to continue the Customer Practices postpetition is extremely modest given the scope of these cases.

130. The following are general descriptions of the prepetition customer obligations relating to the Debtors' Customer Practices:

A. Customer Pre-Payment

131. The Debtors bill subscribers in advance of their monthly services. As a result, subscribers must pre-pay for programming services each month. In addition, certain of the Debtors' customers may pay for programming services up to one year in advance. The only programming that the Debtors do not charge for in advance are pay-per-view movies and events. Accordingly, as of the Petition Date, the Debtors owe programming services to almost all of their customers with respect to customer payments made prior to the Petition Date. Through this Motion, the Debtors request authority from the Court to continue providing DIRECTV programming services in the ordinary course of the Debtors' business and honor their obligations to subscribers who have prepaid for programming services.

132. In addition to the pre-payment of programming services, the Debtors may also have obligations relating to installation services or equipment that their customers purchased via credit card payment prior to the Petition Date. In general, when a subscriber makes a credit card purchase of equipment or installation services, there may be a few days of separation between the date the Debtors charge the subscriber's credit card and the rendering of the installation services or the actual delivery of the equipment. As a result, the Debtors request authority from the Court to continue operating in the ordinary course of business and fulfill these obligations to their customers during the post-petition period that may have been purchased prior to the Petition Date.

B. Customer Rebate Program

133. The Debtors offer rebates to certain of their new customers that currently range between \$50 and \$100 depending on the respective customer's credit score, the type of offer and the selected programming packages. The rebates are paid in the form of programming credits that are applied to the customer's account. The rebates are generally credited to the customer's account

within four to eight weeks, or over a series of months, after receipt of the customer's rebate application or upon activation in some cases. In the event the customer terminates its programming prior to the exhaustion of the rebate, the remaining credit is deemed forfeited and will not be applied against any early termination fees or other fees and charges that accrue on the customer's account.

134. The rebates are offered to certain prospective customers to incentivize such customers to subscribe to the Pegasus Digital One Plan. The Debtors' failure to honor the rebates payable to its customers would significantly erode the Debtors' new customer base and impair the Debtors' ability to successfully attract additional subscribers. In the event that the Debtors did not honor such rebate claims, those customers with rebate claims may attempt to offset those claims against the amount they owe the Debtors. As such, payment of the rebate claims may have minimal impact on the funds available to the Debtors' unsecured creditors.

135. As of the Petition Date, the Debtors estimate a liability of \$125,712 for the cost of rebates arising from prepetition agreements with certain subscribers. However, in light of the fact that these rebates are granted in the form of a credit applied to a particular customer's account, the Debtors do not believe they have any cash liability to their customers with respect to the rebate claims.

C. Warranty and Alleged Defective Return Policies

136. Pursuant to the Pegasus Digital One Plan, the Debtors lease equipment to subscribers of DIRECTV programming services and offer warranties relating to certain components of the leased equipment. In particular, the warranties cover the repair or replacement of any inoperable portion of covered leased equipment that has been used properly in accordance with its intended purpose and instructions.

137. Upon a customer request for repair or replacement, the Debtors determine the appropriate method of servicing the inoperable equipment, which decision is in their sole discretion. The Debtors contract with third parties to perform all repair work covered by the warranties. Although the Debtors do not believe that as of the Petition Date they have any cash liability on account of these warranty claims, the Debtors respectfully request that the Court authorize them to continue performing their warranty obligations in the ordinary course of business after the Petition Date.

138. In addition, for those customers who choose to purchase rather than lease equipment, the Debtors offer in the ordinary course of their business a service plan, which provides customers an extended warranty on their equipment. In order to purchase the service plan, customers pay a month-to-month fee that covers certain repairs or the replacement of defective equipment. As with the warranty for leased equipment, the Debtors contract with a third party provider to perform all repair work covered by the service plan. The Debtors, through a third party provider, have an insurance policy in force that guarantees the performance of PST's obligations under the service plan. In the event the Debtors fail to pay any valid claim under the service plans within sixty days after proof of loss has been filed, or fail, in the event of cancellation, to refund the unearned portion of the service plan contract price, the customer is entitled to make a direct claim against the insurer. Although the Debtors do not believe that as of the Petition Date they have any cash liability on account of the service plans, by this Motion, the Debtors request this Court's authority to continue performing their obligations pursuant to those service plans purchased prepetition by certain of their programming customers.

D. Customer Deposit Obligations

139. In the ordinary course of the Debtors' business, the Debtors require a small segment of their customers to remit cash deposits in exchange for the use of an "access card" in certain circumstances. The access card provides security and encryption information and allows subscribers to control the use of their programming systems. The access card also allow the Debtors to capture billing information that is specific to each customer's account. Although most new subscribers obtain an access card when they purchase new equipment, in certain instances subscribers may require replacement access cards when they purchase used equipment or have a lost, stolen or damaged access card, for example. In order to receive a replacement access card, subscribers must deposit \$90 with the Debtors, which is charged to the particular subscriber's DIRECTV programming account. Subscribers are eligible to receive a refund of this \$90 deposit only upon the return of an undamaged original card within 10 days of the receipt of the replacement card. In addition, if the subscriber returns a different access card or a card that cannot be linked to the original access card, the subscriber is refunded only \$40 of the deposit. After the return of the card, the Debtors refund the deposit by issuing a credit to the subscriber's DIRECTV programming account.

140. The Debtors possess a number of customer deposits that were deposited prior to the Petition Date. It is unclear whether portions of the customer deposits relate to the prepetition period, because the use of the access cards by the Debtors' customers straddles the prepetition and post-petition periods. Thus, out of an abundance of caution, the Debtors seek authority to refund certain customer deposits pursuant to the access card deposit program, including those deposits that may relate to the prepetition period, as and when required in the ordinary course of business. The Debtors believe that they may be required to refund an aggregate amount of customer deposits held as of the Petition Date of approximately \$193,650.



E. General Customer Refunds

141. In the ordinary course of the Debtors' business, the Debtors have maintained certain refund policies under certain reasonable circumstances designed to accommodate their customers' needs. These general customer refunds relate to certain issues that arise in the course of providing DIRECTV programming services or related equipment and include, without limitation, billing or programming errors, problems with programming service, problems with equipment, termination of service where programming was prepaid and other similar refunds and credits.

142. The Debtors, through the Customer Programs Motion, seek authority to honor their general customer refund obligations in accordance with their prepetition policies and practices. The Debtors believe that the aggregate amount of General Customer Refunds that have accrued and that are projected to accrue in respect of prepetition customer obligations prior to the Petition Date is approximately \$52,207.

F. Special Promotional Programs

143. From time to time in the ordinary course of their business the Debtors make special promotional offers. Among other things, these programs may be used to encourage customers to sign up for special programming channels or to utilize pay-per-view programming options. Such offers may be in the form of credits to the subscriber's account or coupons that may be exchanged for an account credit. The Debtors estimate that as of the Petition Date an aggregate potential liability of approximately \$868,458 on account of special promotional programs. However, of this aggregate total, \$456,808 relates to coupons for pay-per-view events. Historically, only approximately 10% of such coupons are actually redeemed by the Debtors' subscribers. As a result, the Debtors believe that their actual liability with respect to special promotional programs could be significantly lower than that estimated herein.

144. The Debtors believe that most, if not all, of their prepetition obligations relating to Customer Practices are owed to individual consumers. As a result, the Debtors believe that up to \$2,225 per individual of most of these obligations are entitled to priority in payment under section 507(a)(6) of the Bankruptcy Code.<sup>29</sup> Because such claims are entitled to priority in payment under section 507(a)(6), such claims would have to be paid in full under any plan of reorganization. 11 U.S.C. § 1129(a)(9). Furthermore, the Debtors believe that it is important to honor the prepetition customer obligations in order to maintain good customer relations.

145. The success, viability and revitalization of the Debtors' business are dependent upon the development and maintenance of customer loyalty. The commencement of the Debtors' chapter 11 cases will no doubt create apprehension on the part of customers or potential customers regarding their willingness to commence or continue doing business with the Debtors. The Debtors believe that without the requested relief, the stability of the Debtors' business will be significantly undermined, and otherwise loyal customers may explore alternative pay television options. The damage that would result if the Debtors failed to honor their prepetition obligations with respect to Customer Practices significantly outweighs any detriment to the Debtors' creditors or their estates. To preserve the value of their businesses, the Debtors must be permitted, in their sole discretion, to continue honoring or paying all Customer Practices without interruption or modification. In addition, to provide necessary assurances to customers on a going-forward basis, the Debtors request authority to continue honoring or paying all obligations to customers that arise from and after the Petition Date in the ordinary course of the Debtors' business.

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<sup>29</sup> The Debtors believe that it is highly unlikely that any individual customer could have more than \$2,225 of prepetition obligations outstanding.

7. *Motion of the Debtors and Debtors in Possession for an Order Authorizing, But Not Directing, the Debtors to Continue to Operate in the Ordinary Course, Including Payment of Pre-Petition Date Claims, With Respect to Non-Debtor Dealers (the “Dealers Motion”)*

146. The Debtors obtain new subscribers for their DIRECTV programming services through several channels of distribution. The most significant method of distribution is the Debtors’ independent retail network, which consists of dealer relationships with over 4,000 dealers (the “Dealers”), as discussed in Part I, *supra*. These Dealers are not employees of the Debtors. In order to become a retail Dealer for the Debtors, a prospective Dealer must enter into a Retail Dealer Agreement, which provides certain valuable protections to the Debtors and may be terminated for any reason or no reason upon written notice by either the Dealer or PST. The Debtors’ primary commission plan with the Dealers involves the marketing of the Pegasus Digital One Plan (the “Digital One Plan”).<sup>30</sup> This commission plan is generally governed by the Dealer Rules, Policies, and Procedures, restated as of May 10, 2004 (the “Dealer Rules”). In general, the Dealer Rules provide that the Dealers will market the Pegasus Digital One Plan (the “Program”) to residential subscribers who are not current DIRECTV programming subscribers and who have not subscribed to DIRECTV programming through the Debtors during the prior twelve months. The Dealers are responsible for enrolling subscribers to the Debtors’ DIRECTV programming, providing subscribers with the necessary equipment, and arranging for installation of the equipment.

147. The Dealers are typically paid directly through a variety of incentive programs, including equipment subsidies, installation subsidies, commissions, and/or flex payments. The Debtors change these incentives from time to time in accordance with certain business initiatives to encourage and reward particular Dealer behavior or to achieve a particular mix of sales offers. In

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<sup>30</sup> In addition to the Pegasus Digital One Plan, the Dealers may also market the Pegasus Standard Sale Plan (the “Standard Sale Plan”). The Standard Sale Plan contains the same general commission programs as the Digital One Plan, with some variations.

addition, the Dealers may participate in the Pegasus Cooperative Advertising Program (the “Cooperative Advertising Program”). Under the Cooperative Advertising Program, eligible Dealers are allocated monthly cooperative advertising funds to offset a certain percentage of their qualified advertising expenditures.

148. The strength of the Debtors’ DBS business is based on the Debtors’ widespread national presence in rural markets. In contrast to metropolitan areas, it is difficult to establish sales and distribution channels in rural areas. Most retailers in rural areas are independently owned and operate a limited number of store locations that serve large geographic areas. As a result, the Debtors rely on their 4,000 independent Dealers to distribute DIRECTV programming services to certain areas of the country that are otherwise difficult to penetrate. The Debtors’ ability to maintain a network of Dealers and to penetrate rural markets on a wide-scale basis is critical to the Debtors’ success in its restructuring efforts. Furthermore, the Debtors’ operations are dependent upon obtaining a sufficient number of quality subscribers and retention of subscribers for extended periods of time. The Debtors’ Dealer compensation and incentive programs are designed to ensure that the Dealers maximize their efforts in enlisting new and maintaining existing quality subscribers to the Debtors’ DIRECTV programming services.

149. By the Dealer Motion, the Debtors request the entry of an order granting the Debtors authority, in their discretion, to operate in the ordinary course of business and to maintain their business relationships with the Dealers including the performance or payment of certain pre-Petition Date obligations the Debtors owe to their Dealers. The Debtors believe it is likely that they will assume their Dealer agreements during the course of the reorganization and therefore any prepetition amounts owed to the Dealers would likely be considered cure obligations at the time of assumption.

150. The Debtors believe the relief requested in the Dealer Motion is necessary to their reorganization, because the Dealers are essential to the Debtors' overall business and the Debtors believe that a failure to pay the prepetition amounts owing to the Dealers will have a material, adverse effect on the Debtors' business. First, the Dealers sole source of revenue from the sale of DBS programming and equipment for the Debtors is from the commission programs; the Dealers do not receive any profit margin on the satellite equipment they sell. In addition, although the Dealers must comply with certain performance standards under their contracts with PST, the agreements do not obligate the Dealers to sell a pre-defined number of programming packages or to aggressively solicit new customers. In other words, the Dealers' incentive to expend the effort to sell the Debtors' DBS services is tied directly to the Dealers' commission package not to any express covenants or other agreements in the Dealer Retail Agreement. Accordingly, the Debtors believe that if the Dealers are not paid on account of the prepetition obligations, the Dealers can and will discontinue or substantially reduce their sales efforts on behalf of the Debtors, thereby impeding the Debtors' access to quality, credit-worthy subscribers in rural markets. Furthermore, many of the Dealers also provide services to the Debtors' existing subscribers. If the Dealers discontinue their sales operations on account of non-payment by the Debtors, they may also discontinue servicing the Debtors' current subscribers, which may cause defections of the Debtors' existing customers.

151. Second, the uninterrupted payment of the Dealers is critical to maintaining the Dealers' allegiance to the Debtors.<sup>31</sup> One factor contributing to the Dealers' loyalty to the Debtors during the prepetition period was the Debtors' ability to make timely payments to the Dealers. Many of the Dealers are dual providers of the DBS services offered by the Debtors and the satellite

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<sup>31</sup> Furthermore, because of the small size of certain of the Dealers, any disruption in the payments to the Dealers could have an adverse effect on their operations. Many of the Dealers are small, independently run operations that are dependent on receiving timely payment from the Debtors for their livelihood and may suffer hardship if not paid. If these

broadcast programming services offered by the Debtors' competitors. In many of the Debtors' sales territories, the various satellite service providers compete intensely for market share by offering generous compensation packages to Dealers and competitive programming packages to customers. In the event the Dealers go unpaid, the Debtors believe that the Dealers may channel their efforts to market the products and services of the Debtors' competitors against the Debtors' DBS services, or they may violate their obligations under the to the Debtors under the Retail Dealer Agreement by soliciting the Debtors' existing customers (with whom they have pre-existing relationships) to transfer their programming to one of the Debtors' competitors.

152. The Debtors' concerns over Dealer and customer defections are particularly acute because the industry has seen significant disruption and volatility in the past. In 2002, Echostar, one of the Debtors' competitors, made an attempt to acquire DIRECTV. Although this acquisition was ultimately unsuccessful, it caused the Dealers to question the Debtors' future in the DBS industry, despite the Debtors' clear communication to its Dealers that such an acquisition would leave the Debtors' unaffected. Similarly, the media attention surrounding the on-going litigation between the Debtors and DIRECTV has raised doubts among the Dealer network regarding the Debtors' position in the DBS business and prompted inquiries regarding the litigation's impact on the Debtors or the effect it will have on the individual Dealers. Based on the recent past, the Debtors believe that the filing of these chapter 11 cases will add to the Dealers' uncertainty concerning the Debtors' future. The Debtors believe that paying the Dealers on account of the prepetition obligations will reassure the Dealers that the Debtors intend to, and will in fact, continue performing their obligations to the Dealers during the postpetition period.

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locations are forced to close their doors, the Debtors may not have any presence in these locations.

153. On account of these factors, if certain Dealer locations refused to deal with the Debtors or were forced to cease operations, the effect of this failure to serve the Debtors' 1.1 million customers in these territories would be very damaging to the Debtors' business and their ability to complete a successful chapter 11 process. The Debtors' goodwill, national presence, and brand recognition, which are enhanced by these locations, would be substantially harmed by a loss of locations and the resulting erosion of the Debtors' customer base, geographic service area and revenue streams. The Debtors' ongoing business efforts require them to fully serve customers in their exclusive territories, which requires the full support of the entire Dealer network.

154. The Debtors compensate their Dealers weekly in arrears by a lump sum payment to each Dealer for each of the Dealer programs. Dealer compensation includes a mix of commission programs, equipment and installation subsidies, bonus programs and cooperative advertising programs. As of the Petition Date, the Debtors' estimate the aggregate cost of performing all of their prepetition obligations owed to their Dealers will be approximately \$1,224,524.

155. Authorizing, but not requiring, the Debtors to perform their pre-Petition Date obligations owed to the Dealers in order to maintain the Debtors' business relationships with the Dealers will enable the Debtors to maintain their vast network of retail locations and to continue to enlist new subscribers and retain the Debtors' existing subscribers. If the Dealers are not timely paid it is likely that they will no longer be willing to provide services to the Debtors and/or the quality of their services will deteriorate. Due to the scarcity of available retail options in rural locations, which comprise the Debtors' only DIRECTV programming service territories, the loss of the Dealers would irreparably damage the Debtors' ability to reach its customer base. Moreover, any burden to the estate to pay such obligations is significantly outweighed by the resulting loss of business that would be caused by a failure to pay such obligations and the deleterious effects on the Dealers and

customers. By reason of the importance of the Dealers to the Debtors' overall geographic presence and operations, the Debtors believe that paying such pre-Petition Date claims to the Dealers is integral to the Debtors' business going forward and their ability to maintain their enterprise value and to serve their customers. As a result, the Debtors submit that authorization to continue to operate in the ordinary course regarding the payment of pre-Petition Date amounts owed to Dealers is appropriate and justified under sections 363(b) and 105(a) of the Bankruptcy Code.

156. In addition, the claims against the Debtors resulting from non-payment of the prepetition amounts due under the Dealer programs would most likely constitute "cure" obligations under section 365(b)(1)(A) of the Bankruptcy Code to the extent the Debtors' contractual relationships with the Dealers are executory contracts that the Debtors could assume in the exercise of their business judgment. At this early stage of the bankruptcy case, the Debtors believe they would be permitted under section 365 to assume such contracts. However, rather than take such an action at this time, the Debtors propose to continue the status quo by paying the prepetition amounts due under the Dealer programs as set forth in the Dealer Motion. Then, after the Debtors have had the opportunity to review their executory contracts and develop a plan of reorganization, the Debtors can determine which of their contracts they wish to assume.

157. As set forth above, payment of the pre-Petition Date amounts owed to the Dealers is necessary and in the best interests of the Debtors, their estates, creditors, and other parties-in-interest. In addition, the Debtors ability to reorganize will be seriously, if not irreparably, damaged unless the Debtors continue to maintain their existing relationships with the Dealers. The maintenance of these relationships depends on the payment of Dealer claims as set forth in the Dealer Motion. Payment of the Debtors' pre-petition obligations to the Dealers is thus necessary to the survival of the Debtors and appropriate given the nature of the Debtors' reorganization efforts.



8. *Motion for an Order Authorizing But Not Directing Payment of Certain Prepetition Taxes (the “Tax Motion”)*

158. The Debtors filed a Motion for Order Authorizing But Not Directing Payment of Certain Prepetition Taxes. More specifically, with the Tax Motion the Debtors seek an Order: (i) authorizing, but not directing, the Debtors to pay certain accrued and outstanding prepetition taxes; and (ii) authorizing and directing applicable banks and financial institutions to process and pay all of the Debtors’ deposits, wire transfers and checks that may not have cleared prior to the Petition Date involving the payment of such taxes.

159. With the Tax Motion, the Debtors seek authority to pay the relevant taxing authorities for accrued and unpaid sales, use, and property taxes as well as any surcharges associated with such taxes.

160. The Debtors’ DBS operations result in the collection of state sales and use taxes and surcharges from their customers. These sales and use taxes and surcharges are subsequently remitted to the applicable taxing authorities. Sales and use taxes and surcharges accrue and are paid at various intervals to the relevant taxing authorities. As of the Petition Date, the estimated aggregate amount of the Debtors’ accrued and unpaid sales and use taxes and surcharges is approximately \$3.2 million.

161. The Debtors are obligated to pay property taxes on certain real and personal property that they own within the United States. The Debtors are required to make separate filings of real and personal property taxes to numerous taxing authorities during each year. As of the Petition Date, the estimated aggregate amount of the Debtors’ accrued and/or unpaid real and personal property taxes is approximately \$1.1 million.

162. Payment of the various taxes in the Tax Motion are necessary to the effective administration of the Debtors' estate. Non payment of these taxes will result in penalty and the accrual of interest on the amounts owed. Moreover, all or virtually all of the applicable taxes and surcharges discussed in this Motion are entitled to priority status pursuant to section 507(a)(8) of the Bankruptcy Code and, thus, must be provided for in full under any plan of reorganization. See 11 U.S.C. § 1129(a)(9)(C). Accordingly, the payment of the taxes at this time will affect only the timing of payment, will avoid the accrual of interest or penalty charges on such claims, and will not prejudice the rights of the Debtors' general unsecured creditors.

**B. Case Administration Motions**

*1. Joint Motion For Joint Administration of Debtors' Chapter 11 Cases Pursuant to Fed. R. Bankr. P. 1015(b) (the "Joint Administration Motion")*

163. The Debtors intend to file with the Court a number of motions, applications, and other pleadings meant to apply to all of these cases. Moreover, the Debtors anticipate that they will file a joint plan of reorganization and a joint disclosure statement. The Debtors believe that the joint administration of these cases, including the combining of notices to creditors of the respective estates and the calling and hearing of all matters related to the Debtors at the same time, will promote economical and efficient administration of the Debtors' estates.

164. Due to the name recognition enjoyed by Pegasus Satellite Television, Inc. among the general public and in an effort to avoid public confusion, the Debtors believe that Pegasus Satellite Television, Inc. should be named the lead debtor in the caption of these consolidated chapter 11 cases.

*2. Motion for Order Extending Time to File Schedules, Lists and Statements of Financial Affairs*

165. The voluntary chapter 11 petitions filed by the Debtors were accompanied by a consolidated list of creditors and lists that included each Debtor's fifty (50) largest unsecured creditors. The schedules of assets and liabilities, statements of financial affairs, lists of equity security holders and lists of executory contracts and leases (collectively, the "Schedules") required by Bankruptcy Rule 1007(b) were not filed with the Debtors' chapter 11 petitions.

166. Due to the sheer size and complexity of the Debtors' businesses, the diversity of their operations and assets, and the limited staffing available to gather, process and complete the Schedules, the Debtors do not believe the fifteen (15) day automatic extension of time to file the Schedules provided for by Bankruptcy Rule 1007(c) will be sufficient to permit completion of the Schedules. The Debtors require additional time to bring their books and records up to date and to collect the data needed for the preparation and filing of the Schedules.

167. At this juncture, the Debtors estimate that an extension of sixty (60) additional days (for a total of 75 days) pursuant to Bankruptcy Rule 1007(c) will provide the Debtors with sufficient time to prepare and file the Schedules. Accordingly, the Debtors are requesting such extension(s) without prejudice to their rights to seek any further extension(s) from this Court, if necessary, or to seek a waiver of the requirement for filing certain Schedules.

3. *Motion for Entry of Order Establishing Notice and Service Requirements in Debtors' Chapter 11 Cases (the "Notice Motion")*

168. The Debtors submit that an order streamlining the notice and service requirements applicable to these cases under the Bankruptcy Code, the Bankruptcy Rules and the Local Rules of the United States Bankruptcy Court for the District of Massachusetts (the "Local Bankruptcy Rules"), will enable them to avoid the expenditure of an undue amount of time, effort and

money in copying documents for, and serving them upon, parties who in many instances have no genuine interest in receiving such documents.

169. A great many parties are or may be interested in the Debtors' chapter 11 cases, including creditors, governmental agencies or regulatory bodies, municipal authorities and employees. In addition, it is expected that many parties will file notices of appearance. Serving each of these parties with complete sets of pleadings in connection with each matter for the duration of these cases would be unduly time-consuming, wasteful and prohibitively expensive. In view of this, the Debtors seek to establish notice and service requirements that will enable the Debtors' estates to save many thousands of dollars in duplicating and service costs, while at the same time providing notice which comports with notions of due process.

170. The Debtors submit that the relief requested in the Notice Motion will promote the efficient and economical administration of these cases, and is in the best interests of the Debtors' estates and creditors.

**C. Professional Retention Applications and Related Motions**

*1. Application For an Order Authorizing the Retention of Sidley Austin Brown & Wood LLP as Attorneys for the Debtors and Debtors In Possession (the "Sidley Retention Application")*

171. These cases are likely to be extraordinarily complex and will require counsel to the Debtors with a national reputation and with extensive experience in bankruptcy cases. The Debtors have chosen Sidley Austin Brown & Wood LLP ("Sidley") as their bankruptcy counsel for these cases because of Sidley's extensive experience with and knowledge of the Debtors' businesses learned in connection with the Debtors' preparation for its restructuring efforts and Sidley's prepetition representation of the Debtors in certain litigation, as well as Sidley's extensive experience

and knowledge in the field of debtors' and creditors' rights and business reorganizations generally under chapter 11 of the Bankruptcy Code.

172. In the months leading up to the Petition Date, Sidley has been advising the Debtors as to restructuring issues, including factors pertaining to the commencement of these Chapter 11 Cases, as well as to general litigation matters. In so doing, Sidley has become intimately familiar with the Debtors and their affairs. The partners and associates of Sidley who will advise the Debtors in these cases have wide-ranging experience in bankruptcy law, as well as in litigation and corporate, real estate and tax law. For all of the foregoing the Debtors believe that Sidley is uniquely well-qualified to represent them as debtors in possession in these Chapter 11 Cases.

173. The professional services of Sidley are necessary to enable the Debtors to execute faithfully and competently their duties as debtors-in-possession. Subject to the control and further order of this Court, the Debtors propose to retain Sidley to render to perform the services detailed in the Sidley Retention Application.

2. *Application For an Order Authorizing the Retention and Employment of Bernstein, Shur, Sawyer & Nelson, P.A. as Attorneys for the Debtors and Debtors In Possession*

174. By the Application, the Debtors seek entry of an order pursuant to sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rule 2014 authorizing the employment and retention of Bernstein, Shur, Sawyer & Nelson, P.A. ("BSSN") as their reorganization and bankruptcy co-counsel with regard to the filing and prosecution of their chapter 11 cases.

175. The Debtors have selected BSSN, subject to the Court's approval, because of BSSN's extensive experience and knowledge in the field of debtors' and creditors' rights and business reorganizations under chapter 11 of the Bankruptcy Code. Additionally, the Debtors submit

that BSSN's expertise, experience and knowledge practicing before this Court will be efficient and cost effective for the Debtors' estates. In preparing these cases, BSSN has become familiar with the Debtors' businesses and affairs and many of the potential legal issues which may arise in the context of these chapter 11 cases in a most efficient and timely manner.

176. The Debtors anticipate that BSSN will render services, including but not be limited to, the following:

to provide the Debtors with legal advice with respect to their powers and duties as debtors-in-possession in the continued operation of their businesses and management of their properties;

to prepare and pursue confirmation of a plan of reorganization and approval of a disclosure statement;

to prepare on behalf of the Debtors necessary applications, motions, answers, orders, reports and other legal papers;

to appear in court and to protect the interests of the Debtors before the court; and

to perform all other legal services for the Debtors which may be necessary and proper in these proceedings.

177. I believe that BSSN is well qualified to provide its services to the Debtors in a cost-effective, efficient and timely manner.

3. *Application for Order Approving Admission Pro Hac Vice*

178. By this motion, the Debtors seek the admission, pro hac vice, of certain Sidley attorneys in order that such attorneys may appear and be heard at the hearings in these Chapter 11 Cases.

4. *Application For an Order Authorizing the Retention of Trumbull Group, LLC as Claims and Noticing Agent for the Debtors and Debtors in Possession*

179. The Debtors also filed an Application for Order Appointing the Trumbull Group, LLC, f/k/a Trumbull Associates, LLC, and Trumbull Services, LLC, as Claims, Noticing and Balloting Agent of Bankruptcy Court Pursuant to 28 U.S.C. § 156. With this Application, the Debtors are seeking an order authorizing the retention and employment of the Trumbull Group, LLC (“Trumbull”) as the claims, noticing and balloting agent to, among other things: (a) serve as the Court’s noticing agent to mail notices to certain of the estate’s creditors and other parties-in-interest, (b) provide computerized claims, objection and balloting database services; and (c) provide expertise and consultation and assistance in claim and ballot processing and with the dissemination of other administrative information related to the Debtors’ chapter 11 cases.

180. Trumbull has assisted and advised numerous chapter 11 debtors in connection with noticing, claims administration and reconciliation, and administration of plan votes, including Kmart Corporation, Budget Group, Inc., Armstrong Worldwide, FPA Medical Management, Inc., Glenoit Corporation, HomePlace, J. Peterman, Stone and Webster, Safety Kleen, and Talk America.

5. *Application For an Order Under 11 U.S.C. § 327(a) Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisors for the Debtors and Debtors in Possession*<sup>32</sup>

181. The Debtors filed an Application for Order Authorizing the Debtors and Debtors in Possession to Employ FTI Consulting, Inc., as Financial Advisors Pursuant to 11 U.S.C. §§ 327(a) and 328(a). With this Application, the Debtors are seeking authorization to employ and retain of FTI Consulting, Inc. (“FTI”) as financial advisor for the purpose of providing financial advisory and consulting services in these Chapter 11 cases. As more fully set forth in the FTI Application, FTI is a well-respected financial advisory and consulting firm and its professionals have extensive experience working with financially troubled entities and FTI has served, or is serving, as a

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<sup>32</sup> The Debtors anticipate filing this Application shortly after the commencement of these cases, but will not seek to have this Application heard at the “first day” hearing.

financial advisor to numerous debtors-in-possession and official creditors' committees in various chapter 11 proceedings, including: US Airways Group, Inc. (Debtors), Kmart Corporation (Debtors), Federal-Mogul Corporation (Debtors), Babcock & Wilcox Co. (Debtors), Cold Metal Products, Inc. (Debtors), and Pacific Gas and Electric (Creditors' Committee).

182. As more fully set forth in the Application, FTI will provide a number of services, including:

Assistance to the Debtors in the preparation of financial related disclosures required by the Court, including the Schedules of Assets and Liabilities, the Statement of Financial Affairs and Monthly Operating Reports;

Assistance to the Debtors with information and analyses required pursuant to the hearings regarding the use of cash collateral and other financing as deemed necessary

Assistance with the identification and implementation of short-term cash forecasting and cash management procedures;

Assistance with the identification of executory contracts and leases and performance of cost/benefit evaluations with respect to the affirmation or rejection of each; and

Assistance in the preparation of financial information for distribution to creditors and others, including, but not limited to, cash flow projections and budgets, cash receipts and disbursement analysis, analysis of various asset and liability accounts, and analysis of proposed transactions for which Court approval is sought.

6. *Application For an Order Under 11 U.S.C. § 327(a) Authorizing the Employment and Retention of Miller Buckfire Lewis Ying & Co., LLC as Investment Bankers for the Debtors and Debtors in Possession*<sup>33</sup>

183. The Debtors filed an Application for Order Authorizing the Debtors and Debtors In Possession to Employ Miller Buckfire Lewis Ying & Co., LLC as Financial Advisor and Investment Banker Pursuant to 11 U.S.C. §§ 327(a) and 328(a). With this Application, the Debtors

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<sup>33</sup> The Debtors anticipate filing this Application shortly after the commencement of these cases, but will not seek to have this Application heard at the "first day" hearing.



are seeking to retain and employ Miller Buckfire Lewis Ying & Co., LLC (“MBLY”) as financial advisor and investment banker for the Debtors for the purpose of providing financial advisory and investment banking services.

184. The Debtors selected MBLY because its professionals have extensive experience in providing financial advisory and investment banking services to financially distressed companies and to creditors, equity holders and other constituencies in reorganization proceedings and complex financial restructurings, both in and out of court. For instance, MBLY’s professionals are providing or have provided financial advisory, investment banking, and other services in connection with the restructuring of Acterna Corporation; AT&T Latin America; Bruno’s Inc.; Burlington Industries; Cajun Electric Power Corporation; Cambridge Industries; Carmike Cinemas; Celotex Corporation; Centerpoint Energy; Criimi Mae, Inc.; CMS Energy Corporation; CTC Communications; Dow Corning Corporation; Drypers, Inc.; Favorite Brands International Inc.; Focal Communications Corporation; FPA Medical Management; Grand Union Co.; Heartland Wireless; Horizon Natural Resources Company; Huntsman Corporation; ICG Communications; ICO Global Communication, Ltd.; IMPATH Inc.; Kmart Corporation; Loewen Group; Mirant Corp.; Montgomery Ward & Co.; National Airlines; Oakwood Homes; Pacific Crossing Limited; Pathmark Stores, Inc.; PennCorp Financial Group, Inc.; Pioneer Companies; PSINet; Polaroid Corporation; Polymer Group, Inc.; The Spiegel Group; Sunbeam Corporation; Trans World Airlines; US Office Products; and U.S. Generating Florida Partnerships.

185. The Debtors anticipate that MBLY will render financial advisory and investment banking services, including the follow services:

if the Debtors determine to undertake a restructuring, providing financial advice and assistance to the Debtors in developing and seeking approval of a

restructuring plan, including participating in negotiations with entities or groups affected by the plan; and

if the Debtors determine to undertake a sale, identifying and negotiating with potential acquirors in connection with a sale, including preparation of sale memoranda and presentation materials, as appropriate.

7. *Application For an Order Authorizing the Employment and Retention of Hewitt Associates, LLC as Compensation Consultants for the Debtors and Debtors in Possession*<sup>34</sup>

186. The Debtors also filed an Application for Order Authorizing the Debtors and Debtors In Possession to Retain and Employ Hewitt Associates LLC as Compensation Consultant Pursuant to 11 U.S.C. §§ 327(a) and 328(a). With this Application, the Debtors are seeking to employ and retain Hewitt Associates LLC (“Hewitt”) as compensation consultant to analyze, among other things, whether the Debtors’ compensation and incentive programs are reasonable, and whether such programs are comparable to other compensation and incentive programs in the cable and satellite television industry.

187. Hewitt is well suited to undertake this task in that Hewitt is one of the leading executive compensation consulting firms, specializing in, among other things, the analysis of compensation programs to attract, retain, motivate and reward key executives, employees and directors. Founded in 1943, Hewitt’s client roster includes more than half of the Fortune 500 companies and more than a third of the Fortune Global 500 companies.

8. *Application For an Order Authorizing the Employment and Retention of Kekst and Company, Incorporated as Corporate Communications Consultant for the Debtors and Debtors in Possession*<sup>35</sup>

188. The Debtors filed an 11. Application for Order Authorizing the Debtors and Debtors in Possession to Employ Kekst & Company, Incorporated, as Corporate Communications

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<sup>34</sup> The Debtors anticipate filing this Application shortly after the commencement of these cases, but will not seek to have this Application heard at the “first day” hearing.

<sup>35</sup> The Debtors anticipate filing this Application shortly after the commencement of these cases, but will not seek to have this Application heard at the “first day” hearing.

Advisor Pursuant to 11 U.S.C. §§ 327(a) and 328(a). With this Application, the Debtors seek to employ and retain Kekst and Company, Incorporated (“Kekst”) as corporate communications consultant for the purpose of providing corporate advisory, public relations, and strategic and crises communication services throughout these chapter 11 cases

189. Kekst is particularly well suited to serve as Debtors’ corporate communications consultant in these chapter 11 cases. Formed in 1970 Kekst specializes in addressing crisis and corporate communications. Kekst’s professionals have extensive experience in crisis communications involving matters such as transaction, bankruptcies, restructurings and reorganizations. Kekst enjoys an excellent reputation for the services it has rendered on behalf of debtors in large and complex chapter 11 cases, including, Kmart Corporation, Factory 2-U Stores, Loral Space & Communications Ltd., Fleming Companies, Magellan Health, Ntelos, AT&T Canada, IT Group, Comdisco, Polaroid Corporation, Loews Cineplex Entertainment, Stone & Webster and AMP Bowling.

9. *Application For Order Authorizing the Debtors and Debtors-in-Possession to Employ and Retain Drinker Biddle & Reath LLP as Special Corporate and Regulatory Counsel Pursuant to 11 U.S.C. §§ 327(e) and 328(a) (the “Drinker Retention Application”)*<sup>36</sup>

190. Throughout the course of these chapter 11 cases, the Debtors will require corporate and regulatory counsel with a national reputation and with extensive experience in all areas of corporate law. The Debtors have selected Drinker Biddle Reath LLP (“Drinker”), subject to the Court’s approval, to serve as their special counsel to represent them in connection with securities offerings and other forms of financing, acquisitions and divestitures, issues related to compliance

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<sup>36</sup> The Debtors anticipate filing this Application shortly after the commencement of these cases, but will not seek to have this Application heard at the “first day” hearing.

with federal and state securities laws, employee benefits issues, and general corporate and regulatory matters likely to be encountered in these chapter 11 cases.

191. The attorneys at Drinker have performed legal services for the Debtors, their non-debtor affiliates including Pegasus Communications Corporation, and the predecessors of such entities since 1987. Such services have included financing transactions, including securities offerings, acquisitions and divestitures, advice concerning federal and state securities laws, employee benefits, real estate, trademarks, certain litigation matters and general corporate law advice. Through their representation of the Debtors, the members of Drinker have become uniquely and thoroughly familiar with the Debtors and their business affairs. Thus, the Debtors believe that Drinker is well qualified to represent them as their special counsel for corporate and regulatory matters.

192. The professional services of Drinker are necessary to enable the Debtors to execute faithfully and competently their duties as debtors-in-possession. Subject to the control and further order of this Court, the Debtors propose to retain Drinker to render and perform the services detailed in the Drinker Retention Application.

*10. Application For Order Authorizing the Debtors and Debtors-in-Possession to Employ and Retain Shaw Pittman LLP as Special Counsel in Connection with Certain Communications Laws Pursuant to 11 U.S.C. §§ 327(e) and 328(a) (the “Shaw Pittman Retention Application”)*<sup>37</sup>

193. Given the technical nature of the Debtor’s businesses and the importance of obtaining broadcast licenses and other regulatory approvals, the Debtors will require the services of a law firm with extensive experience in communications law and regulatory issues. The Debtors have selected Shaw Pittman LLP (“Shaw Pittman”), subject to the Court’s approval, to serve as their

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<sup>37</sup> The Debtors anticipate filing this Application shortly after the commencement of these cases, but will not seek to have this Application heard at the “first day” hearing.

special counsel to represent them in connection with various communications law issues, including regulatory and FCC related matters, likely to be encountered in these chapter 11 cases.

194. Over the last 11 years, the attorneys at Shaw Pittman have represented certain of the Debtors and their non-debtor affiliates in connection with the licensing and operation of television stations and other communications systems, the prosecution of FCC administrative rulemaking and adjudicatory matters, the filing and prosecution of patent applications, and transactional and regulatory matters related to satellite procurement. Through their representation of the Debtors and certain of the Debtors' non-debtor affiliates, the members of Shaw Pittman have become uniquely and thoroughly familiar with the Debtors and their business affairs. The Debtors believe that Shaw Pittman's continued representation of the Debtors in connection with certain communications law and regulatory matters, as more fully described in the Shaw Pittman Retention Application, is essential to the Debtors' effectuating a successful chapter 11 process and will provide a substantial benefit to the Debtors and their estates. Thus, the Debtors believe that Shaw Pittman is well qualified to represent the Debtors as their special counsel in connection with certain communications laws matters.

195. The professional services of Shaw Pittman are necessary to enable the Debtors to execute faithfully and competently their duties as debtors-in-possession. Subject to the control and further order of this Court, the Debtors propose to retain Shaw Pittman to render and perform the services detailed in the Shaw Pittman Retention Application.

11. *Application For Order Authorizing the Debtors and Debtors-in-Possession to Employ Capital Management Associates, Inc. as Cooperative Issues Expert Pursuant to 11 U.S.C. § 327(a) and 328(a) (the "CMA Retention Application")*<sup>38</sup>

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<sup>38</sup> The Debtors anticipate filing this Application shortly after the commencement of these cases, but will not seek to have this Application heard at the "first day" hearing.

196. In light of the size and complexity of these chapter 11 cases and the importance of the Debtors' relationship with the NRTC (a cooperative organization) to their continued ability to distribute DIRECTV programming, the Debtors require the services of a seasoned and experienced cooperative issues expert. As such, the Debtors have selected Capital Management Associates, Inc. ("CMA") based on (i) its vast experience in providing advisory and consulting services to organizations operated on a cooperative basis and to entities with an interest in patronizing or otherwise conducting business with organizations operating on a cooperative basis, (ii) its extensive experience providing advisory and consulting services to various constituencies in reorganization proceedings and (iii) its familiarity with the Debtors' businesses, finances, capital structure and operations.

197. Over the last three years, CMA has been advising the Debtors in connection with their relationships and dealings with entities organized on a cooperative basis, particularly the NRTC. CMA has become extremely familiar with the Debtors' business operations, capital structure, financing documents and other material information. Given CMA's familiarity with the Debtors and their businesses, as well as CMA's experience and expertise in providing advisory and consulting services to companies doing business with entities organized on a cooperative basis, the Debtors believe that CMA and the professionals it employs are uniquely qualified to advise them on the matters for which CMA is proposed to be employed.

198. The professional services of CMA are necessary to enable the Debtors to execute faithfully and competently their duties as debtors-in-possession. Subject to the control and further order of this Court, the Debtors propose to retain CMA to render and perform the services detailed in the CMA Retention Application.

12. *Application For Order Authorizing the Debtors and Debtors-in-Possession to Employ and Retain Arnold & Porter LLP as Special Litigation Counsel Pursuant to 11 U.S.C. §§ 327(e) and 328(a) (the “Arnold & Porter Retention Application”)*<sup>39</sup>

199. The Debtors anticipate the possibility that they will continue to be involved in certain complex litigation matters throughout the pendency of these Chapter 11 cases. As such, the Debtors will require the services of special litigation counsel with a national reputation and with extensive experience in complex litigation matters. The Debtors have selected Arnold & Porter, subject to the Court’s approval, to serve as their special litigation counsel in connection with certain litigation matters likely to be encountered in these chapter 11 cases, including anticipated litigation involving DIRECTV.

200. Over the last five years, the attorneys at Arnold & Porter have represented certain of the Debtors, including Pegasus Satellite Television, Inc., in connection with various complex litigation matters, including litigation with DIRECTV, as well as anti-trust and patent issues. Through their representation of the Debtors in these matters, the members of Arnold & Porter have become uniquely and thoroughly familiar with the Debtors and their business affairs, and particularly with the facts and legal issues involved in litigation matters involving DIRECTV. Based on Arnold & Porter’s familiarity with the DIRECTV litigation matters, the Debtors believe that the continued retention of Arnold & Porter is essential to the Debtors’ effectuating a successful chapter 11 process. In particular, as the Debtors and their other retained professionals will clearly need continued access to Arnold & Porter’s in depth knowledge of the legal and factual issues involved in the DIRECTV litigation, the continued retention of Arnold & Porter will provide substantial benefit to the Debtors and their estates. Given Arnold & Porter’s experience and expertise in litigation matters generally, as well as their in depth knowledge of complex litigation matters that are certain to continue post-

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<sup>39</sup> The Debtors anticipate filing this Application shortly after the commencement of these cases, but will not seek to have

petition, the Debtors believe that Arnold & Porter is well qualified to represent them as their special counsel for litigation matters.

201. The professional services of Arnold & Porter are necessary to enable the Debtors to execute faithfully and competently their duties as debtors-in-possession. Subject to the control and further order of this Court, the Debtors propose to retain Arnold & Porter to render and perform the services detailed in the Arnold & Porter Retention Application.

13. *Motion For Authority To Employ And Compensate Certain Professionals For Services Rendered To The Debtors In The Ordinary Course Of Business (the “Ordinary Course Professionals Motion”<sup>40</sup>)*

202. The Debtors retain the services of various professionals from time to time in the ordinary course of operating their business (the “Ordinary Course Professionals”). These Ordinary Course Professionals provide services to the Debtors in a variety of discrete matters including, but not limited to, the following areas: regulatory issues, tax issues, employee benefit matters and employee related litigation, intellectual property matters, commercial litigation and real estate matters.

203. Because of the large number and geographic diversity of the professionals and the discreet nature of the services performed by such professionals that are regularly retained by the Debtors, it would be unwieldy and burdensome on both the Debtors and this Court to request each such Ordinary Course Professional to apply separately for approval of its employment and compensation. Moreover, the amount of fees paid to the Ordinary Course Professional may be de minimus in any given month but can vary widely from month to month.

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this Application heard at the “first day” hearing.

<sup>40</sup> The Debtors anticipate filing this Motion shortly after the commencement of these cases, but will not seek to have this Motion heard at the “first day” hearing.



204. The uninterrupted services of the Ordinary Course Professionals are vital to the Debtors' continuing operations and their ultimate ability to effectuate a successful chapter 11 process. In addition, the cost of preparing and prosecuting these retention applications and fee applications would be significant and unnecessary because such costs would ultimately be borne by the Debtors' estates. Accordingly, the Debtors request that they be permitted to employ and retain the Ordinary Course Professionals on terms substantially similar to those in effect prior to the Petition Date. The Debtors anticipate that the fees and disbursements due to each individual Ordinary Course Professional will not exceed \$20,000 per month, or \$200,000 per annum."

205. Although certain of the Ordinary Course Professionals may hold small unsecured claims against the Debtors, the Debtors do not believe that any of the Ordinary Course Professionals have an interest materially adverse to the Debtors, their estates, creditors, or other parties in interest.

*14. Motion for Administrative Order Under 11 U.S.C. §§105(a) and 331 Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals (the "Interim Compensation Motion")*<sup>41</sup>

206. The Debtors anticipate filing applications to retain (1) Sidley Austin Brown & Wood LLP as their bankruptcy counsel; (2) Bernstein, Shur, Sawyer & Nelson as their local bankruptcy counsel; (3) FTI Consulting Inc., as their financial advisers; (4) Miller Buckfire Lewis Ying & Co. as their investment banker; (5) Kekst & Company, Incorporated, as their corporate communications advisor, (6) Trumbull Group, LLC, as their claims and noticing agent, as well as special counsel and other professionals pursuant to section 327(e) of the Bankruptcy Code in these cases as the need arises.

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<sup>41</sup> The Debtors anticipate filing this Motion shortly after the commencement of these cases, but will not seek to have this Motion heard at the "first day" hearing.

207. Pursuant to section 331 of the Bankruptcy Code, the Debtors request the establishment of procedures for compensating and reimbursing Professionals on a monthly basis similar to those recently established in other chapter 11 cases in this Circuit. Such an order will streamline the Professionals' compensation process and enable the Court and all other parties to more effectively monitor the Professional fees incurred in these cases. Further, it will avoid forcing the Professionals to finance these cases while awaiting final approval of their fees and expenses.

WHEREFORE, for the foregoing reasons, the Debtors respectfully request that the Court enter an order (i) authorizing the Debtors to retain and employ Sidley as their counsel in these chapter 11 cases pursuant to § 327(a) of the Bankruptcy Code, with compensation and reimbursement of expenses to be paid as an administrative expense in such amounts as may be allowed by the Court pursuant to §§ 330, 331, and 507(a)(1) of the Bankruptcy Code, and (ii) granting to the Debtors such other relief as may be just and proper.

Dated: Bala Cynwyd, Pennsylvania  
June 2, 2004

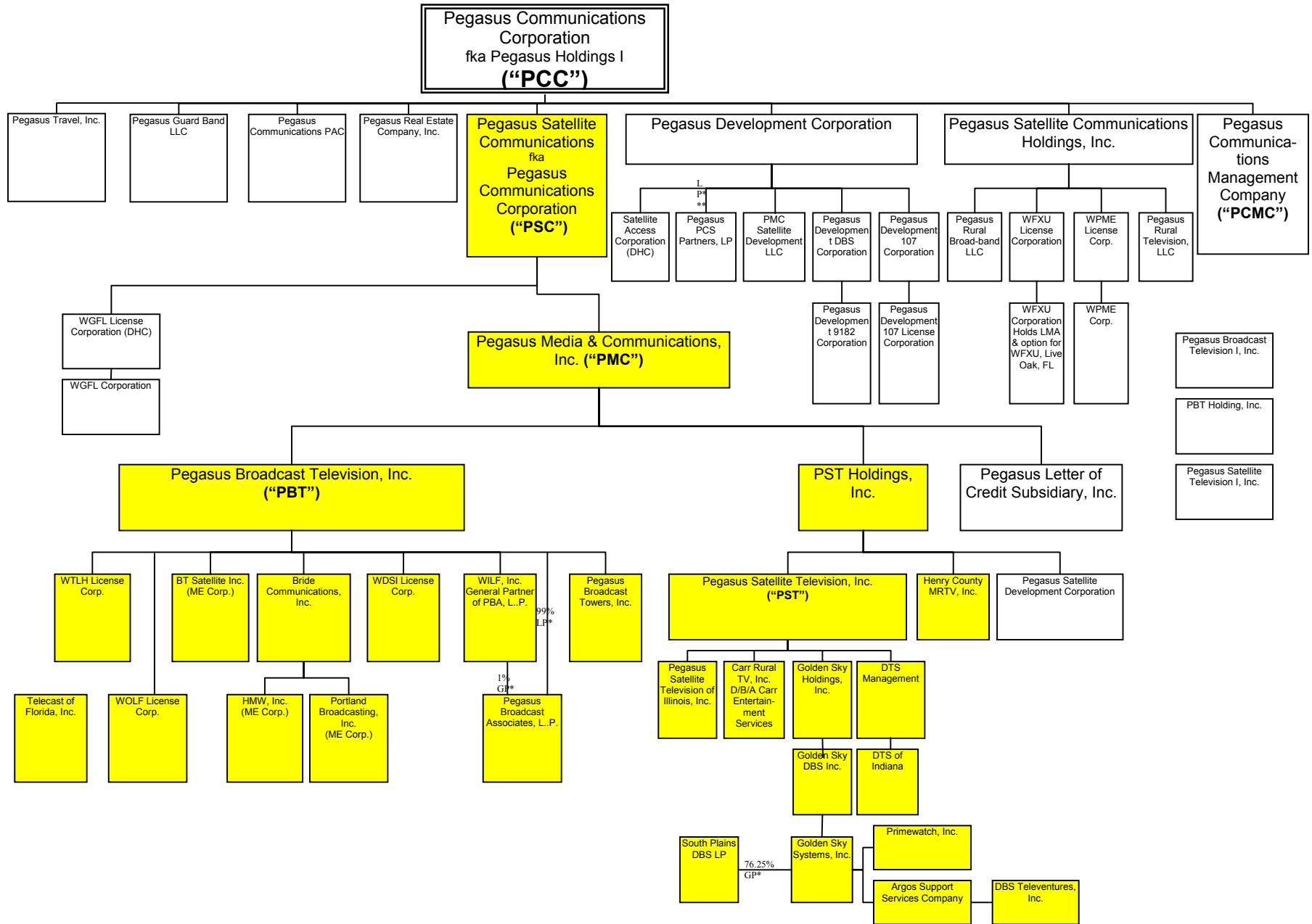
PEGASUS SATELLITE COMMUNICATIONS,  
INC.  
(for itself and on behalf of its debtor subsidiaries)  
Debtors and Debtors in Possession



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Ted S. Lodge  
President, Chief Operating Officer and Counsel

**EXHIBIT A**



**EXHIBIT B**

**Pegasus Satellite Communications, Inc.**

**Consolidated Cash Forecast Scenario**

**Privileged and Confidential  
Working Draft; subject to change  
Prepared by Management**

	May 28, 2004 Actual	May 28, 2004 Forecast	Variance	June 4, 2004 Forecast (3)	June 11, 2004 Forecast	June 18, 2004 Forecast	June 25, 2004 Forecast
Beginning balance.....	\$18,249,882	\$18,249,882	\$-	\$16,619,729	\$21,263,068	\$13,809,018	\$25,575,718
Total cash receipts (1).....	14,869,000	14,763,900	105,100	12,838,800	24,948,400	15,175,400	15,175,400
Total cash disbursements (2).....	16,499,152	21,316,236	5,117,084	8,195,461	32,402,450	3,408,700	7,860,750
Ending balance.....	<u>\$16,619,729</u>	<u>\$11,697,545</u>	<u>\$4,922,184</u>	<u>\$21,263,068</u>	<u>\$13,809,018</u>	<u>\$25,575,718</u>	<u>\$32,890,368</u>

**Notes:**

- (1) Receipts during the week ending June 11, 2004 include an anticipated \$7.6 million receipt of NRTC patronage
- (2) Includes distributions to the Management Company
- (3) Activity for the week ended June 4, 2004 includes pre-petition and post-petition items